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1854

Handwritten signature or text, possibly "A. J. Smith"

THE
COMPILED STATUTES
OF THE
STATE OF NEW HAMPSHIRE:
TO WHICH ARE PREFIXED
THE CONSTITUTIONS
OF THE
UNITED STATES AND OF THE STATE OF NEW HAMPSHIRE.

PUBLISHED BY ORDER OF THE LEGISLATURE.



SECOND EDITION.

CONCORD:
PUBLISHED BY G. PARKER LYON.
1854.

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COMPILED AND PUBLISHED

AGREEABLY TO

RESOLUTIONS OF THE LEGISLATURE,

PASSED

JUNE AND NOVEMBER SESSIONS, 1862.

WM. BUTTERFIELD, PRINTER.

VRASBU 090715

COMMISSIONERS' REPORT.

IN pursuance of a resolution of the legislature, passed June session, 1852, the undersigned were commissioned by the governor and council "to compile, arrange and put into chapters, under appropriate heads, the public acts now in force, including the revised statutes and the public acts and laws passed since the revision of the statutes." On receiving our commission for that purpose, we proceeded immediately to the work, and reported to the legislature, at their November session, what portion of it we had been able to accomplish in that time.

Under a resolution of the November session, recommitting the work to us, "with instructions to proceed with the compilation," we have completed, published, and herewith submit, the compilation containing all the laws now in force, including the acts of June and November sessions, 1852.

Our endeavor has been, so far as possible, to follow strictly the instructions contained in the resolution, not intending to exceed our authority, but to make a "*compilation*" without changing the legal sense of the original enactments. In consequence of adopting the plan to compile together in chapters and sub-divisions the various sections relating to the same subject, to avoid the perplexity that might arise in finding out the original enactments, we have made reference to the chapter and year of the laws passed since 1842 at the end of each section, and have in like manner referred to the revised statutes, excepting those chapters which are identical, or nearly so.

The laws passed since 1842, being composed in a great measure of additions to and amendments of the revised statutes, contain as a matter of course references to the chapters and sections added to or amended, which references we have retained in the compilation, giving at the same time, in parenthesis, the chapter and section of the compilation. Acts required to be adopted by towns and corporations we have been obliged to arrange in the same manner, which, it will be readily seen, has rendered our task much more laborious than it would have been if we had had authority to revise in that particular.

In the general plan of the work we have adopted the arrange-

ment of the revised statutes, retaining the same titles, but adding new chapters, where the subject matter required, under its most appropriate title.

The constitution of the United States we have prefixed to the compilation, and also the constitution of New Hampshire, with the governor's proclamation of amendments adopted by the constitutional convention of 1851.

The resolution of the November session recommitted the work to the commissioners, authorizing them "to complete the same and to procure the same to be printed, with a proper index, in such way and manner as they may deem to be for the best interest of the State," without instructions as to the prices to be paid for printing or the number of copies to be procured for the State. We, therefore, presumed it was the intention of the legislature that the printing should be done by the state printers, on the terms fixed by law, and that the number of copies for the use of the State should be the same as of the pamphlet laws authorized by law. Accordingly the state printers were directed to do the printing at said prices, and to furnish 825 copies for the use of the State; and we agreed with them that the book should be furnished to the public at the same prices.

We have appended a copious and full index, which we believe will be found convenient for reference; and with the above explanations of arrangement and plan of the compilation, we submit it to the legislature, hoping it will be found, on examination, in every respect what was intended by them and what was expected by the public.

RALPH METCALF,
CALVIN AINSWORTH,
SAMUEL H. AYER.

CONCORD, *June*, 1853.

The following typographical errors occurred in the first edition of the Compiled Statutes, and are corrected in this, the second edition :—

Page 175, sec. 2, second line, the word *not*, omitted.

" 293, " 2, last line, for *mortgagee*, mortgager.

" 422, " 2, second line, for *devised*, derived.

PUBLISHER.

CONCORD, *December*, 1854.

ANALYSIS

OF THE

CONSTITUTIONS OF THE UNITED STATES AND OF NEW HAMPSHIRE,

AND OF THE

SEVERAL TITLES AND CHAPTERS

CONTAINED IN

THE COMPILED STATUTES.

CONSTITUTION OF THE UNITED STATES.

	Page
ARTICLE I. Legislative power,.....	2
II. Executive power,.....	7
III. Judicial power,.....	9
IV. Relative rights of states,	10
V. How the constitution may be amended,	11
VI. Of former debts, supremacy of the constitution and laws of the United States and oath re- quired of public officers,.....	11
VII. Ratification of the constitution,	12
Amendments,.....	12

CONSTITUTION OF THE STATE OF NEW HAMPSHIRE.

PART I. Bill of rights,	17
PART II. Form of government,	23
General court,.....	23
House of representatives,	24
Senate,.....	27

PART II.	Executive power,	30
	Governor,	30
	Council,	34
	Secretary, treasurer, commissary general, &c.,.....	35
	County treasurer, &c.,.....	35
	Judiciary power,.....	36
	Clerks of courts,.....	37
	Encouragement of learning,.....	37
	Oaths, writs and general provisions,.....	38
	Declaration of the adoption of the constitution,....	41

THE COMPILED STATUTES.

TITLE I.

OF STATUTES AND LEGISLATIVE PROCEEDINGS.

CHAPTER 1.	Of the construction of statutes,.....	43
" 2.	Of applications to and proceedings before the legislature,	46
" 3.	Of the publication and distribution of statutes and journals,	47
" 4.	Of the public printer and public printing,	49

TITLE II.

OF THE PROPERTY AND REVENUE OF THE STATE.

CHAPTER 5.	Of the state house,	51
" 6.	Of the state library,.....	52
" 7.	Of the state lands,.....	53
" 8.	Of the surplus revenue,.....	54
" 9.	Of the asylum for the insane,	56
" 10.	Of the state tax,.....	58

TITLE III.

OF CERTAIN STATE OFFICERS, AND THE TENURE OF OFFICE.

CHAPTER 11.	Of the secretary of state,	65
" 12.	Of the state treasurer,.....	66

CHAPTER 13.	Of the attorney general and solicitors,	68
“ 14.	Of notaries public and commissioners in other states,	69
“ 15.	Of the tenure and oath of office,	71
“ 16.	Of filling vacancies,	72

TITLE IV.

OF THE CIVIL DIVISIONS OF THE STATE.

CHAPTER 17.	Of the several counties of the State,	73
“ 18.	Of the several council districts,	76
“ 19.	Of the several senatorial districts,	77

TITLE V.

OF COUNTIES AND COUNTY OFFICERS.

CHAPTER 20.	Of the powers and obligations of counties,	79
“ 21.	Of the election of county officers,	80
“ 22.	Of the county treasurer,	81
“ 23.	Of the register of deeds,	82
“ 24.	Of the county revenue,	83

TITLE VI.

OF ELECTIONS OTHER THAN OF COUNTY AND TOWN OFFICERS.

CHAPTER 25.	Of the rights and qualifications of voters,	85
“ 26.	Of the manner of conducting elections,	87
“ 27.	Of the election of governor, councillors and senators,	90
“ 28.	Of the election of representatives in congress,	91
“ 29.	Of the election of electors of president and vice-president,	93
“ 30.	Of the election of representatives to the gen- eral court,	95
“ 31.	General provisions concerning elections,	98

TITLE VII

OF TOWNS AND TOWN OFFICERS.

CHAPTER 32.	Of the powers of towns,	99
" 33.	Of the establishment of public libraries,	101
" 34.	Of warning town meetings,	102
" 35.	Of the government of town meetings,	104
" 36.	Of the choice of town officers,	105
" 37.	Of the oaths of town officers,	107
" 38.	Of vacancies in town offices,	108
" 39.	Of town lines,	110
" 40.	Of unincorporated places,	111

TITLE VIII

OF THE ASSESSMENT AND COLLECTION OF TAXES.

CHAPTER 41.	Of persons and property liable to taxation, ...	112
" 42.	Where and to whom persons and property shall be taxed,	115
" 43.	Of the annual invoice of polls and taxable property,	118
" 44.	Of the appraisal of taxable property,	120
" 45.	Of the assessment of taxes,	121
" 46.	Of the return of inventories,	122
" 47.	Of the abatement of taxes,	123
" 48.	Of the collection of taxes of residents,	124
" 49.	Of the collection of taxes of non-residents, ...	126
" 50.	Of the collection of taxes by sheriffs,	130
" 51.	Of extents,	131

TITLE IX.

OF HIGHWAYS, BRIDGES AND REPAIRS.

CHAPTER 52.	Of the powers of selectmen in relation to lay- ing out highways,	134
" 53.	Of the powers of the court of common pleas,	137
" 54.	Of the powers of the road commissioners, ...	139
" 55.	Of the power of the road commissioners to apportion expense in certain cases,	141

CHAPTER	56.	Of the payment of damages and costs,.....	142
"	57.	Of neglect of towns to make and repair highways,.....	143
"	58.	Of the discontinuance of highways,.....	145
"	59.	Of repairing highways in towns,.....	145
"	60.	Of making and repairing highways not in any town,.....	148
"	61.	Of damages from defect of highways,.....	149
"	62.	Of injuries to highways,.....	150
"	63.	Of encumbrances in highways,.....	151
"	64.	Of encroachment on highways,.....	152
"	65.	Of bridges,.....	153
"	66.	Of guide posts,.....	154
"	67.	Of turning to the right,.....	155
"	68.	Of ferries,.....	155

TITLE X.

OF THE SUPPORT OF PAUPERS AND THE PREVENTION OF PAUPERISM.

CHAPTER	69.	Of the settlement of paupers,.....	156
"	70.	Of the support of town paupers,.....	158
"	71.	Of the support of county paupers,.....	160
"	72.	Of the maintenance of bastard children,.....	162

TITLE XI.

OF PUBLIC INSTRUCTION.

CHAPTER	73.	Of the creation and division of school districts,.....	165
"	74.	Of the meetings and officers of school districts,.....	169
"	75.	Of school houses,.....	172
"	76.	Of assessment and apportionment of the school tax,.....	175
"	77.	Of the regulation, instruction and inspection of schools,.....	176
"	78.	Of truant children and absentees from school,.....	180
"	79.	Of high schools,.....	182
"	80.	Of schools in the town of Portsmouth,.....	185

CHAPTER 81.	Of high school in the town of Somersworth,	188
“ 82.	Of commissioners of common schools,	189
“ 83.	Of teachers' institutes,	192
“ 84.	Of instruction of youth in manufacturing es- tablishments,	192
“ 85.	Of the literary fund,	193

TITLE XII.

OF THE MILITIA.

CHAPTER 86.	Of exemptions,	195
“ 87.	Of enrolments,	197
“ 88.	Of returns,	199
“ 89.	Of orderly books and rosters,	201
“ 90.	Of companies and enlistments,	201
“ 91.	Of uniform and equipments,	203
“ 92.	Of ordnance and gun houses,	205
“ 93.	Of arms furnished by the State,	206
“ 94.	Of detachments for actual service,	207
“ 95.	Of regiments, brigades and divisions,	209
“ 96.	Of officers,	212
“ 97.	Of the adjutant general,	214
“ 98.	Of the commissary general,	216
“ 99.	Of courts martial,	217
“ 100.	Of courts of inquiry,	220
“ 101.	Of the incorporation of military companies,	221

TITLE XIII.

**OF THE INSPECTION AND SALE OF PROVISIONS AND MERCHANDISE,
AND THE REGULATION OF TRADE.**

CHAPTER 102.	Of the appointment and duties of inspectors,	222
“ 103.	Of the inspection of flour,	223
“ 104.	Of the inspection of beef and pork,	225
“ 105.	Of the inspection of butter and lard,	231
“ 106.	Of the inspection of hops,	233
“ 107.	Of the inspection of fish,	236
“ 108.	Of the inspection of pot and pearl ashes,	240
“ 109.	Of the inspection of lumber, &c.,	243
“ 110.	Of the sale of hay, leather and cord wood,	246

CHAPTER 111.	Of measurers of grain in Portsmouth,	247
“ 112.	Of the weight of oats, potatoes and bread, . .	248
“ 113.	Of weights and measures,	249

TITLE XIV.

OF INTERNAL POLICE.

CHAPTER 114.	Of extinguishment of fires,	252
“ 115.	Of fire engineers,	257
“ 116.	Of village fire companies,	258
“ 117.	Of hook and ladder companies,	259
“ 118.	Of the safe keeping of gunpowder,	260
“ 119.	Of offences against the police of towns,	262
“ 120.	Of police officers,	265
“ 121.	Of watchmen,	267
“ 122.	Of idle and disorderly persons,	268
“ 123.	Of licensed houses,	269
“ 124.	Of Sunday and religious meetings,	271
“ 125.	Of the removal of nuisances,	273
“ 126.	Of the small pox and pestilential diseases, . .	275
“ 127.	Of quarantine,	276
“ 128.	Of pilots and pilotage and the harbor of Piscataqua,	279
“ 129.	Of sea weed,	280
“ 130.	Of hawkers and pedlers,	281
“ 131.	Of shows and exhibitions,	283
“ 132.	Of the record of births and deaths,	284
“ 133.	Of noxious animals and game,	285
“ 134.	Relating to sheep,	286

TITLE XV.

OF THE TITLE TO, ALIENATION OF, AND LIENS UPON REAL AND PERSONAL ESTATE.

CHAPTER 135.	Of estates in real property,	287
“ 136.	Of the conveyance of real estate,	288
“ 137.	Of mortgages of real estate,	290
“ 138.	Of mortgages of personal property,	293
“ 139.	Of the liens of mechanics and others,	296
“ 140.	Of assignments for the benefit of creditors, . .	297

TITLE XVI.

PROVISIONS RESPECTING MILLS, FENCES, POUNDS, FLOATING TIMBER, STRAYS AND LOST GOODS.

CHAPTER 141.	Of mills and their repairs,.....	298
" 142.	Of fences and common fields,.....	300
" 143.	Of pounds and distraining of animals,.....	303
" 144.	Of floating timber and damages therefrom, ..	306
" 145.	Of strays and lost goods,.....	307
" 146.	Of coast survey,.....	309

TITLE XVII.

OF CORPORATIONS.

CHAPTER 147.	General provisions respecting corporations, ..	310
" 148.	Of banks and savings banks,.....	320
" 149.	Of manufacturing corporations,.....	332
" 150.	Of railroad corporations,.....	338
" 151.	Of proprietors of common lands,.....	361
" 152.	Of voluntary associations,.....	365
" 153.	Of religious societies,.....	367
" 154.	Of fire insurance companies,.....	370
" 155.	Of life insurance,.....	374

TITLE XVIII.

OF THE DOMESTIC RELATIONS.

CHAPTER 156.	Of marriage,.....	375
" 157.	Of divorce,.....	377
" 158.	Of husband and wife,.....	379
" 159.	Of guardian and ward,.....	383
" 160.	Of masters, apprentices and servants,.....	389

TITLE XIX.

OF PROBATE AND THE ESTATES OF DECEASED PERSONS.

CHAPTER 161.	Of judges of probate and their jurisdiction, ..	392
" 162.	Of registers of probate,.....	394
" 163.	Of times and places of holding courts of probate,.....	396

CHAPTER	164.	Of citations and notice,.....	398
"	165.	Of writs,.....	399
"	166.	Of probate of wills,.....	402
"	167.	Of administration,.....	404
"	168.	Of inventory and accounts,.....	406
"	169.	Of embezzlements,.....	408
"	170.	Of suits by and against administrators,.....	409
"	171.	Of insolvent estates,.....	411
"	172.	Of appeal from commissioners,.....	415
"	173.	Of license to sell real estate,.....	417
"	174.	Of conveyance of real estate when wife is insane,.....	419
"	175.	Of widow's allowance, dower and distribu- tive shares,.....	420
"	176.	Of descent, distribution and advancements,..	422
"	177.	Of division of estates among heirs,.....	424
"	178.	Of trustees of estates,.....	425
"	179.	Of bonds to the judge of probate and suits,..	427
"	180.	Of appeals from the court of probate,.....	429

TITLE XX.

OF COURTS AND THEIR OFFICERS.

CHAPTER	181.	Of the superior court and court of common pleas,.....	431
"	182.	Of the adjournment of courts,.....	439
"	183.	Of clerks of courts,.....	440
"	184.	Of justices of the peace,.....	441
"	185.	Of police courts,.....	443
"	186.	Of juries,.....	446
"	187.	Of attorneys and counsellors,.....	450
"	188.	Of state reporter,.....	451
"	189.	Of sheriffs and deputy sheriffs,.....	452
"	190.	Of coroners and constables,.....	457

TITLE XXI.

OF ACTIONS AND PROCESS.

CHAPTER	191.	Of actions,.....	458
"	192.	Of the limitation of suits,.....	460

CHAPTER 193.	Of writs and endorsements,.....	461
" 194.	Of the service of writs,.....	466
" 195.	Of attachments,.....	468
" 196.	Of the exemption of the homestead from attachment and levy or sale on execution,...	474
" 197.	Of arrests and bail,	476

TITLE XXII

OF PROCEEDINGS IN COURTS.

CHAPTER 198.	Of nonsuit, default, notice and abatement,...	479
" 199.	Of tender, confession, pleading and set-off, ..	482
" 200.	Of views and evidence,.....	484
" 201.	Of depositions in perpetual remembrance,...	488
" 202.	Of auditors,.....	489
" 203.	Of judgments,	490
" 204.	Of costs,	492
" 205.	Of reviews and new trials,.....	493

TITLE XXIII

OF EXECUTIONS, LEVIES, BAIL AND RELIEF OF POOR DEBTORS.

CHAPTER 206.	Of executions,	495
" 207.	Of levies on personal estate,.....	497
" 208.	Of levies on real estate,.....	500
" 209.	Of levies on equities of redemption,.....	502
" 210.	Of levies and injunctions,.....	504
" 211.	Of executions against towns,.....	505
" 212.	Of imprisonment and prison bonds,	506
" 213.	Of relief of poor debtors,.....	508
" 214.	Of liability of bail,	510

TITLE XXIV.

OF PROCEEDINGS IN SPECIAL CASES.

CHAPTER 215.	Of habeas corpus,.....	512
" 216.	Of forfeitures of grants,	517
" 217.	Of replevin,.....	520
" 218.	Of the action of dower,.....	521

CHAPTER	219.	Of the partition of real estate,.....	522
"	220.	Of trespasses and waste,.....	525
"	221.	Of the trustee process,.....	527
"	222.	Of the action against tenants,.....	533
"	223.	Of references and confession of debt,.....	535

TITLE XXV.

OF FINES, FORFEITURES, COSTS AND RECOGNIZANCES!

CHAPTER	224.	Of fines, penalties, costs and recognizances,..	538
"	225.	Of forfeitures of personal property,.....	540

TITLE XXVI.

OF CRIMES AND PUNISHMENTS.

CHAPTER	226.	Of offences against the State,.....	542
"	227.	Of offences against the life or person,.....	543
"	228.	Of regulating the sale of active poisons, ...	546
"	229.	Of offences against property,.....	547
"	230.	Of forgery and counterfeiting,.....	553
"	231.	Of offences against public justice,.....	555
"	232.	Of offences against the public peace,.....	558
"	233.	Of offences against chastity, decency and morality,.....	559
"	234.	Of offences against public policy,.....	561
"	235.	General provisions concerning crimes,.....	562
"	236.	Of rewards for the apprehension of criminals,	562

TITLE XXVII.

OF PROCEEDINGS IN CRIMINAL CASES.

CHAPTER	237.	Of criminal jurisdiction of justices of the peace,.....	563
"	238.	Of fugitives from justice,.....	566
"	239.	Of coroners' inquests,.....	568
"	240.	Of proceedings in criminal cases,.....	572

TITLE XXVIII

OF IMPRISONMENT.

CHAPTER 241.	Of jails and houses of correction,	577
" 242.	Of the state prison,	579
" 243.	Of power of warden to borrow money,	583

TITLE XXIX.

OF SALARIES AND FEES.

CHAPTER 244.	Of salaries and compensation of certain officers,	584
" 245.	Of fees and costs in certain cases,	588

TITLE XXX.

CHAPTER 246.	Of acts repealed,	593
--------------	-------------------------	-----

CONSTITUTION

OF

THE UNITED STATES.

ARTICLE I.

SECTION

1. Legislative powers, in whom vested.
2. House of representatives, how and by whom chosen.—Qualifications of a representative.—Representatives and direct taxes, how apportioned.—Census.—Vacancies to be filled.—Power of choosing officers, and of impeachment.
3. Senators, how and by whom chosen.—How classified.—State executive to make temporary appointments in case, &c.—Qualifications of a senator.—President of the senate, his right to vote.—President pro tem. and other officers of senate, how chosen.—Power to try impeachments.—When president is tried, chief justice to preside.—Sentence.
4. Times, &c., of holding elections, how prescribed.—One session in each year.
5. Membership.—Quorum.—Adjournments.—Rules.—Power to punish or expel.—Journal.—Time of adjournments limited, unless, &c.
6. Compensation.—Privileges.—Disqualification in certain cases.
7. House to originate all revenue bills.—Veto.—Bill may be passed by two thirds of each house, notwithstanding, &c.—Bill not returned in ten days.—Provision as to all orders, &c., except, &c.

SECTION

8. Powers of congress.
9. Provision as to migration or importation of certain persons.—Habeas corpus.—Bills of attainder, &c.—Taxes, how apportioned.—No export duty.—No commercial preferences.—No money drawn from treasury, unless, &c.—No titular nobility.—Officers not to receive presents, unless, &c.
10. States prohibited from the exercise of certain powers.

ARTICLE II.

SECTION

1. President, his term of office.—Electors of president, number, and how appointed.—Electors to vote on same day.—Qualification of president.—On whom his duties devolve in case of his removal, death, &c.—President's compensation.—His oath.
2. President to be commander in chief.—He may require opinion of, &c., and may pardon.—Treaty-making power.—Nomination of certain officers.—When president may fill vacancies.
3. President shall communicate to congress.—He may convene and adjourn congress, in case, &c.; shall receive ambassadors; execute laws, and commission officers.
4. All civil offices forfeited for certain crimes.

ARTICLE III.

SECTION

1. Judicial power.—Tenure.—Compensation.
2. Judicial power, to what cases it extends.—Original jurisdiction of supreme court.—Appellate.—Trial by jury, except, &c.—Trial, where.
3. Treason defined.—Proof of.—Punishment of.

ARTICLE IV.

SECTION

1. Each state to give credit to the public acts, &c., of every other.
2. Privileges of citizens of each state.—Fugitives from justice to be delivered up.—Persons held to service, having escaped, to be delivered up.
3. Admission of new states.—Power of congress over territory and other property.
4. Republican form of government guaranteed.—Each state to be protected.

ARTICLE V.

Constitution, how amended.—Proviso.

ARTICLE VI.

Certain debts, &c., adopted.—Supremacy of constitution, treaties and laws of

the United States.—Oath to support constitution, by whom taken.—No religious test.

ARTICLE VII.

What ratification shall establish constitution.

AMENDMENTS.

ARTICLE

1. Religious establishment prohibited.—Freedom of speech, of the press, and right of petition.
2. Right to keep and bear arms.
3. No soldier to be quartered in any house, unless, &c.
4. Right of search and seizure regulated.
5. Provisions concerning prosecution, trial and punishment.—Private property not to be taken for public use, without, &c.
6. Further provision respecting criminal prosecutions.
7. Right of trial by jury secured.
8. Excessive bail or fines and cruel punishments prohibited.
9. Rule of construction.
10. Same subject.
11. Same subject.
12. Manner of choosing president and vice-president.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION FOR THE UNITED STATES OF AMERICA.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained the age of twenty-five years and been seven years a citizen of the

United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative: and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation.

When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend farther than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall without the consent of the other adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and

no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The congress shall have power:—To lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:—To borrow money on the credit of the United States:—To regulate commerce with foreign nations and among the several states, and with the Indian tribes:—To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:—To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:—To provide for the punishment of counterfeiting the securities and current coin of the United States:—To establish post offices and post roads:—To promote the progress of science and useful arts, by securing for limited times to authors and inventors, the exclusive right to their respective writings and discoveries:—To constitute tribunals inferior to

the supreme court:—to define and punish piracies and felonies committed on the high seas, and offences against the law of nations:—To declare war, grant letters of marque and reprisal, and make rules concerning captures on land or water:—To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:—To provide and maintain a navy:—To make rules for the government and regulation of the land and naval forces:—To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions:—To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress:—To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings:—And to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or office thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing, shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder, or ex post facto law, shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolu-

ment, office or title of any kind whatever, from any king, prince or foreign state.

SEC. 10. No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

No state shall, without the consent of congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

ARTICLE II

SECTION 1. The executive power shall be vested in a **PRESIDENT** of the United States of America. He shall hold his office during the term of four years; and together with the vice-president chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons of whom one, at least, shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list, the

said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.*]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States.”

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States: he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

* See amendments, Art. XII.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SEC. 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, [between a state and citizens of another state,*] between citizens of different states, be-

* See amendments, Art. XI.

tween citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the con-

sent of the legislature of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive, (when the legislature cannot be convened,) against domestic violence.

ARTICLE V.

The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendments which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

ARTICLES,

In addition to, and amendment of, the constitution of the United States, ratified by the legislatures of the several states, pursuant to the fifth article of the original constitution.

I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

III. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

VI. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory pro-

cess for obtaining witnesses in his favor, and to have the assistance of counsel in his defence.

VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.

VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IX. The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

XI. The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

XII. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president; but in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice; and if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-

president shall act as president, as in case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

CONSTITUTION

OF

NEW HAMPSHIRE.

APPROVED BY THE PEOPLE, AND ESTABLISHED BY CONVENTION,
FIFTH OF SEPTEMBER,* 1792.

PART FIRST.

BILL OF RIGHTS.

- ARTICLE 1.** All men born free ; all government originates from the people.
- ART. 2.** Natural rights of men.
- ART. 3.** Natural rights when surrendered.
- ART. 4.** Some rights unalienable, as those of conscience.
- ART. 5.** Religious freedom recognized.
- ART. 6.** The support of the ministry.
- ART. 7.** Sovereignty of the state.
- ART. 8.** All officers are servants of the people.
- ART. 9.** No office to be hereditary.
- ART. 10.** Government for the benefit and under the control of the people.
- ART. 11.** Freedom of elections.
- ART. 12.** Rights and duties of citizens. Property taken for public uses. Laws when binding.
- ART. 13.** Exemption from bearing arms.
- ART. 14.** Every person ought to find a certain and speedy remedy at law.
- ART. 15.** Rights of persons prosecuted for crime.
- ART. 16.** No person to be tried after ac-

- quittal for the same offence, nor for a capital offence except by a jury.
- ART. 17.** Trial to be in the county where offence committed.
- ART. 18.** Penalties to be proportioned to offences.
- ART. 19.** Regulation of search and seizure.
- ART. 20.** Trial by jury regulated.
- ART. 21.** Jurors to be carefully selected and fully paid.
- ART. 22.** The liberty of the press.
- ART. 23.** Retrospective laws prohibited.
- ART. 24.** Importance of the militia.
- ART. 25.** Standing armies dangerous.
- ART. 26.** The military subject to the civil power.
- ART. 27.** Soldiers, how quartered.
- ART. 28.** All taxes to be levied by the people.
- ART. 29.** Laws suspended by the legislature only.
- ART. 30.** Freedom of speech and debate.
- ART. 31.** Object of the assembly of the legislature.
- ART. 32.** Right of the people to assemble.
- ART. 33.** Excessive bail and fines and cruel punishments forbidden.

* The former constitution having been approved by the people, was established by convention, 31st October, 1783, and took effect on the first Wednesday of June, 1784.

- ART. 34. Martial law, when exercised.
 ART. 35. The judiciary system.
 ART. 36. Economy enjoined.
 ART. 37. The executive, legislative and judicial powers to be kept separate.
 ART. 38. Recurrence to fundamental principles.

PART SECOND.

FORM OF GOVERNMENT.

1. Declaration of sovereignty.

GENERAL COURT.

2. Legislative power, how vested.
3. Meeting of the legislature.
4. Power to constitute courts.
5. Power to establish laws.
6. Valuation, when and how taken.
7. No member to be of counsel.
8. Doors of galleries to be open.

HOUSE OF REPRESENTATIVES.

9. Representation to be equal.
10. Towns may be classed.
11. Special authority may be given.
12. Election to be held in March.
13. Qualification of voters.
14. Qualifications of representatives.
15. Members to be paid.
16. Vacancies, how filled.
17. Power of impeachment.
18. Money bills to originate in house.
19. Power to adjourn.
20. What is a quorum.
21. Exemption from arrest.
22. House to be judge of its own proceedings.
23. Imprisonment for contempt.
24. Journals and laws to be published.—
Yeas and nays and protest entered on journal.

SENATE.

25. Senate, how constituted.
26. Senatorial districts made.
27. Election to be held in March.
28. Mode of election.
29. Qualifications of senators.
30. Who is an inhabitant.
31. Rights of inhabitants of places.

32. Mode of conducting elections.
33. Votes, how examined, and senators notified.
34. Vacancies, how filled.
35. Senate to be judges of their own returns.
36. Power to adjourn.
37. Mode of proceeding and quorum.
38. To be a court to try impeachments.
39. Power of punishment.
40. When the governor is impeached.

EXECUTIVE POWER.

GOVERNOR.

41. Title of the governor.
42. Governor, how chosen.
43. Governor may adjourn legislature, or alter place of session.
44. Laws to be approved by him.
45. Resolves to be approved by him.
46. Officers to be appointed by the executive.
47. Appointments, how made.
48. Captains, &c., how commissioned.
49. Vacancy in office, how supplied.
50. Governor may prorogue the legislature.
51. Governor to be commander-in-chief.
52. Power of pardon.
53. Removal of officers on address.
54. Military officers, how appointed.
55. Division of the militia regulated.
56. Money, how drawn from the treasury.
57. Account of public property rendered.
58. Compensation of governor and council.
59. Judges to have permanent salaries.

COUNCIL.

60. Five councillors to be elected.
61. Election, how determined.
62. Vacancy, how filled.
63. Members may be impeached.
64. Records of proceedings kept.
65. Council districts regulated.
66. Elections, when completed.

SECRETARY, TREASURER, COMMISSARY GENERAL, &c.

67. Officers, how chosen.
68. Duty of secretary.

- 69. Secretary to have deputy.
- 70. Secretary to give bond.

COUNTY TREASURER, &C.

- 71. To be elected by the people.
- 72. Counties may be divided.

JUDICIARY POWER.

- 73. Tenure of office.
- 74. Opinion of S. J. C. may be required.
- 75. Judge may be removed.
- 76. Jurisdiction of divorce, probate appeals, &c.
- 77. Jurisdiction of justices of the peace.
- 78. Term of office ceases at seventy.
- 79. Judge not to be of counsel.
- 80. Probate jurisdiction.
- 81. Judge nor register to be of counsel.

CLERKS OF COURTS.

- 82. Appointment and duties of clerks.

ENCOURAGEMENT OF LEARNING, &C.

- 83. Encouragement of learning.

OATHS, WRITS, AND GENERAL PROVISIONS.

- 84. Oaths of office, form, &c.
- 85. Oaths, by whom administered.
- 86. Form of commissions.
- 87. Form and requisites of writs.
- 88. Conclusion of indictments.
- 89. No deodand or forfeiture allowed.
- 90. Common law in force.
- 91. Privilege of habeas corpus.
- 92. Enacting style declared.
- 93. Governor or judge to hold no other office.
- 94. Offices which are incompatible.
- 95. Officers which are incompatible.
- 96. Bribery excludes from office.
- 97. Computation of money.
- 98. When constitution to take effect.
- 99. Revision of the constitution.
- 100. Sense of the people to be taken every seven years.
- 101. Constitution to be enrolled, and published with each edition of the laws.

PART FIRST.

BILL OF RIGHTS.

ARTICLE 1. All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent and instituted for the general good.

2. All men have certain natural, essential and inherent rights; among which are, the enjoying and defending life and liberty—acquiring, possessing and protecting property—and in a word, of seeking and obtaining happiness.

3. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to insure the protection of others; and without such an equivalent the surrender is void.

4. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

5. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and

reason ; and no subject shall be hurt, molested or restrained in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion ; provided he doth not disturb the public peace or disturb others in their religious worship.

6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection ; and as the knowledge of these is most likely to be propagated through a society by the institution of the public worship of the DEITY, and of public instruction in morality and religion ; therefore, to promote those important purposes, the people of this State have a right to empower, and do hereby fully empower the legislature to authorize from time to time the several towns, parishes, bodies corporate, or religious societies within this State, to make adequate provision, at their own expense, for the support and maintenance of public protestant teachers of piety, religion and morality :

Provided, notwithstanding, That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians demeaning themselves quietly, and as good subjects of the State, shall be equally under the protection of the law ; and no subordination of any one sect or denomination to another shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry ; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

7. The people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent State, and do, and forever hereafter shall exercise and enjoy every power, jurisdiction and right pertaining thereto, which is not or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.

8. All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

9. No office or place whatsoever in government shall be hereditary—the abilities and integrity requisite in all not being transmissible to posterity or relations.

10. Government being instituted for the common benefit, protection and security or the whole community, and not for the private interest or emolument of any one man, family or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may and of right ought to reform the old or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

11. All elections ought to be free, and every inhabitant of the State, having the proper qualifications, has equal right to elect and be elected into office.

12. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they, or their representative body, have given their consent.

13. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

14. Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without any delay; conformably to the laws.

15. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, but by the judgment of his peers or the law of the land.

16. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment, (except-

ing for the government of the army and navy, and the militia in actual service,) without trial by jury.

17. In criminal prosecutions, the trial of facts in the vicinity where they happen is so essential to the security of the life, liberty and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

18. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason; where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences: for the same reason a multitude of sanguinary laws is both impolitic and unjust; the true design of all punishments being to reform, not to exterminate mankind.

19. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in a warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by law.

20. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless in cases arising on the high seas, and such as relates to mariners' wages, the legislature shall think it necessary hereafter to alter it.

21. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that

none but qualified persons should be appointed to serve; and such ought to [be] fully compensated for their travel, time and attendance.

22. The LIBERTY OF THE PRESS is essential to the security of freedom in a state; it ought, therefore, to be inviolably preserved.

23. Retrospective laws are highly injurious, oppressive and unjust. No such laws, therefore, should be made, either for the decision of civil causes or the punishment of offences.

24. A well regulated militia is the proper, natural and sure defence of a state.

25. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

26. In all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

27. No soldier in time of peace shall be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

28. No subsidy, charge, tax, impost or duty shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

29. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

30. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint or prosecution in any other court or place whatsoever.

31. The legislature shall assemble for the redress of public grievances, and for making such laws as the public good may require.

32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

33. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

34. No person can in any case be subjected to law martial, or to any pains or penalties by virtue of that law except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

35. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well; subject, however, to such limitations on account of age, as may be provided by the constitution of the State; and that they should have honorable salaries, ascertained and established by standing laws.

36. Economy being a most essential virtue in all states, especially in a young one, no pension should be granted but in consideration of actual services, and such pensions ought to be granted with great caution by the legislature, and never for more than one year at a time.

37. In the government of this State, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

38. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

PART SECOND.

FORM OF GOVERNMENT.

1. The people inhabiting the territory formerly called the Province of New Hampshire, do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign and independent body politic, or state, by the name of the STATE OF NEW HAMPSHIRE.

GENERAL COURT.

2. The supreme legislative power within this State shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

3. The senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary; and shall dissolve and be dissolved seven days next preceding the said first Wednesday of June, and shall be styled the *General Court of New Hampshire*.

4. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the State, for the hearing, trying and determining all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever arising or happening within this State, or between or concerning persons inhabiting or residing or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal or mixed; and for the awarding and issuing execution thereon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

5. And farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof; and to name and settle annually, or pro-

vide by fixed laws, for the naming and settling all civil officers within this State; such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers and limits of the several civil and military officers of this State, and the forms of such oaths or affirmations, as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments and other punishments; and to impose and levy proportional and reasonable assessments, rates and taxes upon all the inhabitants of and residents within the said State, and upon all estates within the same; to be issued and disposed of by warrant under the hand of the governor of this State for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of this State, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be in force within the same.

6. And while the public charges of government or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practised; in order that such assessments may be made with equality, there shall be a valuation of the estates within the State taken anew once in every five years at least, and as much oftener as the general court shall order.

7. No member of the general court shall take fees, be of counsel, or act as advocate in any cause before either branch of the legislature; and upon due proof thereof, such member shall forfeit his seat in the legislature.

8. The doors of the galleries of each house of the legislature shall be kept open to all persons who behave decently, except when the welfare of the State, in the opinion of either branch, shall require secrecy.

HOUSE OF REPRESENTATIVES.

9. There shall be in the legislature of this State, a representation of the people annually elected and founded upon principles of equality; and in order that such representation may be as equal as circumstances will admit, every town, parish or place entitled to town privileges, having one hundred and fifty ratable male polls of twenty-one years of age and upwards, may elect one representative; if four hundred and fifty ratable polls, may elect two representatives; and so proceeding in that proportion, making three hundred such ratable polls the mean increasing number for every additional representative.

10. Such towns, parishes or places as have less than one hundred and fifty ratable polls, shall be classed by the general court for the purpose of choosing a representative, and seasonably notified thereof. And in every class formed for the above mentioned purpose, the first annual meeting shall be held in the town, parish or place wherein most of the ratable polls reside; and afterwards in that which has the next highest number, and so on annually by rotation, through the several towns, parishes or places forming the district.

11. Whenever any town, parish or place entitled to town privileges as aforesaid, shall not have one hundred and fifty ratable polls, and be so situated as to render the classing thereof with any other town, parish or place very inconvenient, the general court may, upon application of a majority of the voters in such town, parish or place, issue a writ for their electing and sending a representative to the general court.

12. The members of the house of representatives shall be chosen annually, in the month of March, and shall be the second branch of the legislature.

13. All persons qualified to vote in the election of senators, shall be entitled to vote within the district where they dwell, in the choice of representatives.

14. Every member of the house of representatives shall be chosen by ballot; and for two years at least next preceding his election, shall have been an inhabitant of this State, [shall have an estate within the district which he may be chosen to represent, of the value of *one hundred pounds*, one half of which to be a freehold, whereof he is seized in his own right:] *shall be at the time of his election an inhabitant of the town, parish or place he may be chosen to represent; shall be of the protestant religion, and shall cease to represent such town, parish or place immediately on his ceasing to be qualified as aforesaid.

15. The members of both houses of the legislature shall be compensated for their services out of the treasury of the State, by a law made for that purpose; such members attending seasonably, and not departing without license.

16. All intermediate vacancies in the house of representatives may be filled up from time to time, in the same manner as annual elections are made.

17. The house of representatives shall be the grand inquest of the State, and all impeachments made by them shall be heard and tried by the senate.

* See amendments.

18. All money bills shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.

19. The house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

20. A majority of the members of the house of representatives shall be a quorum for doing business: but when less than two thirds of the representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

21. No member of the house of representatives or senate shall be arrested or held to bail on mesne process, during his going to, returning from, or attendance upon the court.

22. The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house; and shall be judge of the returns, elections and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly and contemptuous behavior, or by threatening or ill treating any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house; in assaulting any witness or other person, ordered to attend by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such.

23. The senate, governor and council shall have the same powers in like cases; provided that no imprisonment by either, for any offence, exceed ten days.

24. The journals of the proceedings, and all public acts of both houses of the legislature, shall be printed and published immediately after every adjournment or prorogation; and upon motion made by any one member, the yeas and nays upon any question shall be entered on the journal: and any member of the senate or house of representatives shall have a right, on motion made at the same time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve or bill passed, entered on the journal.

SENATE.

25. The senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

26. And that the State may be equally represented in the senate, the legislature shall, from time to time, divide the State into twelve districts, as nearly equal as may be, without dividing towns and unincorporated places; and in making this division they shall govern themselves by the proportion of direct taxes paid by the said districts, and timely make known to the inhabitants of the State the limits of each district.

27. The freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

28. The senate shall be the first branch of the legislature: And the senators shall be chosen in the following manner, viz: every male inhabitant of each town and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district whereof he is a member:

29. *Provided, nevertheless,* That no person shall be capable of being elected a senator who is not of the *protestant religion* [and seized of a freehold estate in his own rights of the value of [a] two hundred pounds, lying within this State,] *who is not of the age of thirty years, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

30. And every person qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish and plantation where he dwelleth and hath his home.

31. And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privi-

* See amendments.

lege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the month of March, at such places respectively therein as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution.

32. The meetings for the choice of governor, council and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen, (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and parishes present, and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen, and of the town clerk in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person; and the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof; and the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which said town or parish shall lie, thirty days at least before the first Wednesday of June, or to the secretary of the state at least twenty days before the said first Wednesday of June; and the sheriff of each county, or his deputy, shall deliver all such certificates by him received, into the secretary's office, at least twenty days before the first Wednesday of June.

33. And that there may be a due meeting of senators on the first Wednesday of June, annually, the governor and a majority of the council for the time being shall, as soon as may be, examine the returned copies of such records; and fourteen days before the first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day: *provided, nevertheless*, that for the first year the said returned copies shall be examined by the president and a majority of the council then in office; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

34. And in case there shall not appear to be a senator elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz: the members of the house of representatives, and such senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect by joint

ballot, the senator wanted for such district: and in this manner all such vacancies shall be filled up in every district of the State, and in like manner all vacancies in the senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be after such vacancies happen.

35. The senate shall be final judges of the elections, returns and qualifications of their own members, as pointed out in this constitution.

36. The senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time:

Provided, nevertheless, That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day, or at such place.

37. The senate shall appoint their president and other officers, and determine their own rules of proceedings. And not less than seven members of the senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five, at least, shall be necessary to render their acts and proceedings valid.

38. The senate shall be a court, with full power and authority to hear, try and determine all impeachments made by the house of representatives against any officer or officers of the State, for bribery, corruption, mal-practice or mal-administration in office; with full power to issue summons or compulsory process for convening witnesses before them; but previous to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence. And every officer impeached for bribery, corruption, mal-practice or mal-administration in office, shall be served with an attested copy of the impeachment and order of senate thereon, with such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs, and of making his defence, by himself and counsel, and may also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial.

39. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust or profit under this State; but the party so convicted shall nevertheless be liable to indictment, trial, judgment and punishment, according to the laws of the land.

40. Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate, but have no vote therein.

EXECUTIVE POWER.

GOVERNOR.

41. There shall be a supreme executive magistrate, who shall be styled governor of the State of New Hampshire; and whose title shall be *his excellency*.

42. The governor shall be chosen annually in the month of March; and the votes for governor shall be received, sorted, counted, certified and returned in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives on the first Wednesday of June, to be by them examined, and in case of an election by a majority of votes through the State, the choice shall be by them declared and published. And the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a majority of votes, the senate and house of representatives shall by joint ballot elect one of the two persons having the highest number of votes, who shall be declared governor. And no person shall be eligible to this office, unless at the time of his election he shall have been an inhabitant of this State for seven years next preceding, and unless he shall be of the age of thirty years; [and unless he shall at the same time have an estate of the value of *five hundred pounds*, one half of which shall consist of a freehold in his own right, within this State;]* and unless he shall be of the protestant religion.

43. In cases of disagreement between the two houses, with regard to the time or place of adjournment, or prorogation, the governor, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the public good may require. And he shall dissolve the same seven days before the said first Wednesday of June. And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any

* See amendments.

other cause whereby dangers may arise to the health or lives of the members, from their attendance, the governor may direct the session to be holden at some other, the most convenient place within the State.

44. Every bill which shall have passed both houses of the general court shall, before it become a law, be presented to the governor; if he approve, he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it; if after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days, (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

45. Every resolve shall be presented to the governor, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

46. All judicial officers, the attorney general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment, and no appointment shall take place, unless a majority of the council agree thereto.

47. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council, who made the same.

48. The captains and subalterns in the respective regiments shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on the receipt of such recommendation.

49. Whenever the chair of the governor shall become vacant, by reason of his death, absence from the State or otherwise, the president of the senate shall, during such vacancy, have and exercise all the powers and authorities which by this constitution the governor is vested with, when personally present; but when the president of the senate shall exercise the office of governor, he shall not hold his office in the senate.

50. The governor with advice of council, shall have full power and authority in recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the State should require the same.

51. The governor of this State for the time being, shall be commander-in-chief of the army and navy, and all the military forces of the State, by sea and land; and shall have full power by himself, or by any chief commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and for the special defence and safety of this State, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this State; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprise and means, all and every such person and persons as shall, at any time hereafter, in a hostile manner attempt or enterprise the destruction, invasion, detriment, or annoyance of this State; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by the legislature to exist, as occasion shall necessarily require: And surprise by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering or annoying this State: And in fine, the governor hereby is intrusted with all other powers incident to the office of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land: *provided* that the governor shall not at any time hereafter by virtue of any power by this constitution granted, or hereafter, to be granted to him by the legislature, transport any of the inhabitants of this State, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law martial in any case, without the advice and consent of the council.

52. The power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the governor, by and with the advice of council: but no charter of pardon granted by the governor with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

53. No officer duly commissioned to command in the militia, shall be removed from his office but by the address of both houses to the governor, or by fair trial in court martial, pursuant to the laws of the State for the time being.

54. The commanding officers of the regiments shall appoint their adjutants and quarter-masters; the brigadiers, their brigade majors; the major-generals, their aids; the captains and subalterns, their non-commissioned officers.

55. The division of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this State until the same shall be altered by some future law.

56. No moneys shall be issued out of the treasury of this State, and disposed of, (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon,) but by warrant under the hand of the governor for the time being, by and with the advice and consent of the council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

57. All public boards, the commissary general, all superintending officers of public magazines and stores, belonging to this State, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and all small arms with their accoutrements, and of all other public property under their care respectively; distinguishing the quantity and kind of each as particularly as may be; together with the condition of such forts and garrisons; and the commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors adjacent.

58. The governor and council shall be compensated for their services from time to time, by such grants as the general court shall think reasonable.

59. Permanent and honorable salaries shall be established by law for the justices of the superior court.

COUNCIL.

60. There shall be annually elected by ballot five councillors, for advising the governor in the executive part of government. The freeholders and other inhabitants in each county, qualified to vote for senators, shall some time in the month of March give in their votes for one councillor; which votes shall be received, sorted, counted, certified and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

61. And the person having a majority of votes in any county, shall be considered as duly elected a councillor; but if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two shall elect by joint ballot the councillor wanted for such county; and the qualifications for councillors shall be the same as for senator.

62. If any person thus chosen a councillor, shall be elected governor, or member of either branch of the legislature, and shall accept the trust; or if any person elected a councillor shall refuse to accept the office; or in the case of the death, resignation or removal of any councillor out of the State; the governor may issue a precept for the election of a new councillor in that county where such vacancy shall happen; and the choice shall be in the same manner as before directed; and the governor shall have full power and authority to convene the council from time to time, at his discretion; and with them, or the majority of them, may and shall from time to time, hold a council for ordering and directing the affairs of this State according to the laws of the land.

63. The members of the council may be impeached by the house and tried by the senate for bribery, corruption, mal-practice or mal-administration.

64. The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto; and this record may be called for at any

time by either house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority, with the reasons for such opinion.

65. The legislature may, if the public good shall hereafter require it, divide the State into five districts, as nearly equal as may be, governing themselves by the number of ratable polls and proportion of public taxes; each district to elect a councillor: and in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

66. And whereas the elections appointed to be made by this constitution on the first Wednesday of June annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same be completed. And the order of the elections shall be as follows: the vacancies in the senate, if any, shall be first filled up; the governor shall then be elected, provided there should be no choice of him by the people, and afterwards the two houses shall proceed to fill up the vacancy, if any, in the council.

SECRETARY, TREASURER, COMMISSARY GENERAL, &c.

67. The secretary, treasurer, and commissary general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

68. The records of the State shall be kept in the office of the secretary; and he shall attend the governor and council, the senate and representatives, in person or by deputy, as they may require.

69. The secretary of the State shall at all times have a deputy, to be by him appointed; for whose conduct in office he shall be responsible: and in case of the death, removal or inability of the secretary, his deputy shall exercise all the duties of the office of secretary of state, until another shall be appointed.

70. The secretary, before he enters upon the business of his office, shall give bond with sufficient sureties, in a reasonable sum, for the use of the State, for the punctual performance of his trust.

COUNTY TREASURERS, &c.

71. The county treasurers and registers of deeds shall be elected by the inhabitants of the several towns, in the several counties in the State according to the method now practised, and the laws of the State:

Provided nevertheless, the legislature shall have authority to alter the manner of certifying the votes and the mode of elect-

ing those officers, but not so as to deprive the people of the right they now have of electing them.

72. And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary; each district to elect a register of deeds; and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

73. The tenure that all commissioned officers shall have by law in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution: *provided nevertheless*, the president,* with consent of the council, may remove them upon the address of both houses of the legislature.

74. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law and upon solemn occasions.

75. In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed as shall most conduce to the well being of the State.

76. All causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall by law make other provision.

77. The general court are empowered to give to justices of the peace jurisdiction in civil causes, when the damages demanded shall not exceed four pounds, and title of real estate is not concerned; but with right of appeal to either party to some other court, so that a trial by jury in the last resort may be had.

* Governor in former printed editions, but *president* in the original.

78. No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

79. No judge of any court or justice of the peace, shall act as attorney, or be of counsel to any party, or originate any civil suit, in matters which shall come or be brought before him as judge, or justice of the peace.

80. All matters relating to the probate of wills and granting letters of administration, shall be exercised by the judges of probate in such manner as the legislature have directed, or may hereafter direct: and the judges of probate shall hold their courts at such place or places, on such fixed days as the convenience of the people may require, and the legislature from time to time appoint.

81. No judge or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or register.

CLERKS OF COURTS.

82. The judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure; and no such clerk shall act as an attorney, or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

ENCOURAGEMENT OF LITERATURE, &c.

83. Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments among the people.

OATH AND SUBSCRIPTIONS; EXCLUSION FROM OFFICES; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION, &c.

84. Any person chosen governor, councillor, senator or representative, military or civil officer, (town officers excepted,) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz:

I, A. B., do solemnly swear that I will bear faith and true allegiance to the State of New Hampshire, and will support the constitution thereof. *So help me God.*

I, A. B., do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____ according to the best of my abilities, agreeably to the rules and regulations of this constitution and the laws of the State of New Hampshire. *So help me God.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, he shall not be obliged to take said oath again:

Provided always, when any person chosen or appointed, as aforesaid, shall be of the denomination called Quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such person shall take and subscribe them, omitting the word "*swear*," and likewise the words "*so help me God*," subjoining instead thereof, "*this I do under the pains and penalties of perjury.*"

85. And the oaths or affirmations shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature, and by the senators and representatives first elected under this constitution, as altered and amended, before the president of the State and a majority of the council then in office, and forever afterwards before the governor and council for the time being; and by all other officers, before such persons and in such manner as the legislature shall from time to time appoint.

86. All commissions shall be in the name of the State of New Hampshire, signed by the governor, and attested by the secretary, or his deputy, and shall have the great seal of the State affixed thereto.

87. All writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the State of New Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear test of some other

justice of the court to which the same shall be returnable; and be signed by the clerk of such court.

88. All indictments, presentments and informations shall conclude against the peace and dignity of the State.

89. The estate of such persons as may destroy their own lives shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

90. All the laws which have heretofore been adopted, used and approved, in the province, colony, or State of New Hampshire, and usually practised on in the courts of law, shall remain and be in full force until altered and repealed by the legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution; provided that nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

91. The privilege and benefit of the habeas corpus shall be enjoyed in this State, in the most free, easy, cheap, expeditious and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

92. The enacting style in making and passing acts, statutes and laws, shall be—*Be it enacted by the senate and house of representatives in general court convened.*

93. No governor, or judge of the supreme judicial court, shall hold any office or place under the authority of this State, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace throughout the State; nor shall they hold any place or office or receive any pension or salary from any other state, government or power whatever.

94. No person shall be capable of exercising at the same time, more than one of the following offices in this State, viz: judge of probate, sheriff, register of deeds; and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts; military offices and offices of justice of the peace excepted.

95. No person holding the office of judge of any court, except special judges, secretary, treasurer of the State, attorney general, commissary general, military officers receiving pay from the continent or this State, excepting officers of the militia, occasionally called forth on an emergency, register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and state and continental taxes, hereafter appointed and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in the senate, or house of representatives, or council; but his being chosen and appointed to and accepting the same, shall operate as a resignation of their seat in the chair, senate or house of representatives, or council, and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

96. No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who, in the due course of law, has been convicted of bribery or corruption in obtaining an election or appointment.

97. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver at six shillings and eight pence per ounce.

98. To the end that there may be no failure of justice or danger to the State, by the alterations and amendments made in the constitution, the general court is hereby fully authorized and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.*

99. It shall be the duty of the selectmen and assessors of the several towns and places in this State, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant this purpose among the others for the meeting, to wit: to take the sense of the qualified voters on the subject of a revision of the constitution: and the meeting being warned accordingly, and not otherwise, the moderator shall take the sense of the qualified voters present as to the necessity of a revision; and a return of the number of votes for and against such necessity shall be made by the clerk, sealed up and directed to the general court at their then next session; and if it shall appear to the general court by such return, that the sense of the people of the State has been taken, and that in the opinion of the majority

* See act of Dec. 14, 1792.

of the qualified voters in the State, present and voting at said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose, otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned. The delegates to be chosen in the same manner, and proportioned as the representatives to the general court: *provided* that no alterations shall be made in this constitution before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present and voting on the subject.

100. And the same method of taking the sense of the people as to a revision of the constitution, and calling a convention for that purpose, shall be observed afterwards, at the expiration of every seven years.

101. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this State, in all future editions thereof.

IN CONVENTION,

HELD AT CONCORD, THE 5TH DAY OF SEPTEMBER, ANNO DOMINI 1792.

The returns from the several towns and unincorporated places being examined, and it appearing that the foregoing *bill of rights and form of government*, as amended by the convention, were approved by more than two thirds of the qualified voters present in town meetings, and voting upon the question; the same are agreed on and established by the delegates of the people in convention, and declared to be the civil constitution of the State of New Hampshire.

SAMUEL LIVERMORE,
President of the Convention.

Attest—
JOHN CALFE, *Secretary.*

A M E N D M E N T S .

P R O C L A M A T I O N .

EXECUTIVE DEPARTMENT, }
 CONCORD, SEPTEMBER 16th, 1852. }

Be it known, That I, Noah Martin, governor of the State of New Hampshire, in obedience to the request of the constitutional convention, do hereby proclaim to the people of this State, that the constitution of the same is amended, by striking from it in part 2d, section 14th, the words, " shall have an estate within the district where he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold whereof he is seized in his own right;" and from section 29th, the words, " and seized of a freehold estate in his own right of the value of a hundred pounds, being within this State;" and section 42d, the words, " and unless he shall at the same time have an estate of the value of five hundred pounds, one half of which shall consist of a freehold in his own right, within this State."

The foregoing property qualifications are stricken out, and the constitution is thus amended by the suffrages of more than two thirds of the legal voters present in town meeting and voting upon the questions.

[L. S.] Given under my hand, and the seal of the State affixed, at the council chamber, September the sixteenth, A. D. 1852, and of the independence of the United States of America the seventy-seventh.

NOAH MARTIN.

By the governor:—

JOHN L. HADLEY, *Secretary of State.*

STATE OF NEW HAMPSHIRE.

SECRETARY OF STATE'S OFFICE, }
 CONCORD, JANUARY 27th, 1853. }

A true copy of the original.

ATTEST—JOHN L. HADLEY, *Secretary of State.*

COMPILED STATUTES

OF THE

STATE OF NEW HAMPSHIRE.

TITLE I.

OF STATUTES AND LEGISLATIVE PROCEEDINGS.

- CHAPTER 1. Of the construction of statutes.
CHAPTER 2. Of applications to and proceedings before the legislature.
CHAPTER 3. Of the publication and distribution of statutes and journals.
CHAPTER 4. Of the public printer and public printing.
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CHAPTER 1.

OF THE CONSTRUCTION OF STATUTES.

IDENTICAL WITH
Chapter 1 of the Revised Statutes.

SECTION

1. Construction of *number*.
2. " " *gender*.
3. " " the words "*state*" and "*United States*."
4. " " word "*town*."
5. " " word "*inhabitant*."
6. " " words "*annual meeting*."
7. " " words "*month*" and "*year*."
8. " " word "*person*."
9. " " word "*seal*."
10. " " word "*justice*."

SECTION

11. Construction of the words "*preceding*" or "*following*."
12. " " words "*said*" and "*such*."
13. Authority of public officers to be exercised by a majority.
14. Construction of words "*grantor*" and "*grantee*."
15. " " " "*insane person*."
16. " " word "*issue*."
17. " " words "*land*" and "*real estate*."

SECTION	SECTION
18. Construction of word " <i>will</i> ."	24. Construction of words " <i>court</i> ," " <i>officer</i> ," &c.
19. " " " " <i>written</i> " or " <i>in writing</i> ."	25. Computation of time.
20. " " " " <i>oath</i> ."	26. Repeal, effect of, in civil cases.
21. " " " " <i>highway</i> ."	27. " " " in criminal cases.
22. " " " " <i>county</i> ."	28. " not to revive acts repealed.
23. " " " " <i>selectmen</i> ."	29. Statutes, when to take effect.
	30. Rules above, when to be applied.

SECTION 1. Every word importing either the *singular* or *plural* number, may extend and be applied to one or more than one person or thing.

SEC. 2. Every word importing the *masculine* gender, may extend and be applied to females.

SEC. 3. The word "*state*," when applied to different parts of the United States, may be construed to extend to and include the District of Columbia and the several territories, so called, and the words "United States" shall be construed to include said district and territories.

SEC. 4. The word "*town*" may be construed to extend and be applied to any place incorporated, or the inhabitants of which are required to pay any tax, and may mean that town in which the subject matter referred to is situate, or in which the persons referred to are residents.

SEC. 5. The word "*inhabitant*" may be construed to mean a resident, or person dwelling and having his home.

SEC. 6. The words "*annual meeting*," when applied to towns, may be construed to mean the annual meeting required by law to be holden in the month of March.

SEC. 7. The words "*month*" and "*year*" shall be construed to mean a calendar month or year, unless otherwise expressed, and the word "*year*" shall be equivalent to the expression "year of our Lord."

SEC. 8. The word "*person*" may extend and be applied to bodies politic and corporate, as well as to individuals.

SEC. 9. Whenever the seal of any court or public office is required to be affixed to any paper, the word "*seal*" shall be construed to include an impression of such official seal made upon the paper alone, as well as an impression made by means of wax, or a wafer affixed thereto.

SEC. 10. The word "*justice*," when applied to a magistrate, shall be construed to mean a justice of the peace for the county in which he resides and for which he is appointed.

SEC. 11. The words "*preceding*" and "*following*," when used by way of reference to any section of these revised statutes, shall be construed to mean the section next preceding or following that in which such reference is made, unless some other is expressly designated.

SEC. 12. The words "*said*" and "*such*," when used by way of reference to any person or thing, shall apply to the same person or thing last mentioned.

SEC. 13. All words purporting to give a joint authority to three or more public officers, shall be construed as giving such authority to a majority of them, unless otherwise expressly declared.

SEC. 14. The word "*grantor*" may include every person by or from whom any estate or interest in land passes, in or by any deed, and the word "*grantee*" may include every person to whom any such estate or interest passes in like manner.

SEC. 15. The words "*insane*" or "*insane person*" shall be construed to include an idiot, a non compos, lunatic or distracted person.

SEC. 16. The word "*issue*," as applied to the descent of estates, shall include all the lawful lineal descendants of the ancestor.

SEC. 17. The words "*land*," "*lands*," or "*real estate*," shall be construed to include lands, tenements and hereditaments, and all rights thereto and interests therein.

SEC. 18. The term "*will*" shall be construed to include codicils as well as wills.

SEC. 19. The words "*written*" or "*in writing*" may include printing, excepting when the written signature of a person is required.

SEC. 20. The word "*oath*" shall be construed to include "*affirmations*" in all cases where an affirmation may be substituted for an oath, and in like cases the word "*sworn*" shall be construed to include the word "*affirmed*."

SEC. 21. The word "*highway*" or "*road*" shall be construed to include all bridges thereon.

SEC. 22. The word "*county*" may be construed to mean the county in which the subject matter referred to is situate, belongs, or is cognizable.

SEC. 23. The word "*selectmen*" may be construed to mean the selectmen of the town to which the subject matter to be acted upon belongs or in which it is situate.

SEC. 24. When any court, officer or board is named by their official title, such designation shall be construed to apply to the court, officer or board of the county, town or district, within and for which they are qualified to act in such capacity.

SEC. 25. When time is to be reckoned from any day, date, act done, or the time of any act done either by force of law or by virtue of any contract hereafter made, such day, date or the day when such act is done, shall not be included in such computation.

SEC. 26. The repeal of any act shall in no case affect any act done or any right accruing, accrued, acquired or established, or any suit or proceeding had or commenced in any civil case, before the time when said repeal shall take effect.

SEC. 27. No suit or prosecution pending at the time of the repeal of any act for any offence committed, or for the recovery of

any penalty or forfeiture incurred under the act so repealed, shall in any case be affected by such repeal.

SEC. 28. The repeal of any act shall not be construed to revive any other act which has been repealed.

SEC. 29. Every act passed at any session of the general court commencing in June, shall take effect on the fifteenth day of September next following, and every such act passed at a session commencing at any other time shall take effect on the fifteenth day of March next following, unless a different time be therein limited.

SEC. 30. The foregoing rules shall be observed in the construction of all statutes, unless inconsistent with the manifest intent of the legislature or the context of the same statute.

CHAPTER 2.

OF APPLICATIONS TO AND PROCEEDINGS BEFORE THE LEGISLATURE.

IDENTICAL WITH

Chapter 2 of the Revised Statutes.

SECTION

1. Notice of petitions, how given to individuals.
2. " " " " to towns.
3. " how served, and fees.
4. Resolves to be deemed *acts*.

SECTION

5. All papers, &c., to be filed with secretary.
6. Powers of committees of the legislature.

SECTION 1. When any petition to be presented to the legislature affects the interests of any person, notice thereof may be given by delivering to such person, or the clerk or agent of any corporation, a copy of said petition thirty days at least before the commencement of the session, or by publishing the same three weeks successively in some newspaper printed in the county in which such person resides or such corporation is established; or if no paper is printed in such county, or if such person reside out of the State, then in some newspaper printed in Concord, the last publication of which shall be at least fourteen days before said session.

SEC. 2. When any such petition affects the rights or interests of any town, notice thereof may be given by delivering a copy thereof to the clerk and one selectman at least, or leaving such copy at the usual place of abode of each, thirty days before the second Tuesday of March next preceding the session of the general court to which said petition is returnable.

SEC. 3. Such notice may be served by any person not interested in such petition, or a written acknowledgment of notice shall

be sufficient. The person making such service shall be paid by the petitioner four cents a mile for actual travel in serving the same, twelve cents a page for each copy, and twenty-three cents for each service.

SEC. 4. All joint resolutions of the legislature requiring the approval of the governor shall commence thus: *Resolved by the senate and house of representatives in general court convened*; and shall be passed like acts.

SEC. 5. The clerk of the senate and of the house of representatives, at the close of each session, shall deposit in the office of the secretary of state all petitions and papers which are not recorded there, appertaining to the unfinished business of the legislature, and the secretary shall receive and preserve the same, and deliver them to the clerk of each branch aforesaid on the first day of the session next ensuing.

SEC. 6. Any senator or representative, while acting as a member of any committee of the legislature, may administer an oath to any person who may be examined before such committee.

CHAPTER 3.

OF THE PUBLICATION AND DISTRIBUTION OF STATUTES AND JOURNALS.

IDENTICAL WITH

Chapter 3 of the Revised Statutes.

OF THE STATUTES.	OF THE JOURNALS.
SECTION	SECTION
1. Original acts to be deposited with secretary.	6. Journals of the legislature to be prepared.
2. Copy delivered to the public printer.	7. Journals, how distributed.
3. Printed statutes, how distributed.	8. Exchange of public documents.
4. Publication in newspapers, how made.	
5. United States laws, how distributed.	

SECTION 1. The original acts passed by the legislature shall be deposited and preserved in the office of the secretary of state.

SEC. 2. The secretary, within fifteen days after the close of each session, shall deliver to the public printer a fair copy of all the public and private acts and resolutions passed at such session, together with a digested index of the sections thereof, and of all the statutes enacted after the passing of the revised statutes.

SEC. 3. The secretary shall deposit in his office one copy of the laws published as aforesaid, and shall annually, as soon as may be after their publication, distribute copies as follows:

To the governor; to each member of the council, senate and house; to the secretary and treasurer, for the use of their respective offices; to each of the clerks of the senate and house; to each of the justices of the superior court of judicature and of each court of common pleas; to each clerk of said courts for the use of the court; to each judge and register of probate; to the attorney general and each solicitor for the time being; to each of the judges of the circuit court of the United States for the district of New Hampshire; to each historical society in the United States; to the American Antiquarian Society; to each town in the State; to each unincorporated town or place in which there shall be ten or more ratable polls, inhabitants therein, one copy; to the secretary of each state and territory in the United States, for the use of each state or territory, three copies; to the secretary of state of the United States, for the use of the government of the United States, four copies; and shall deposit the residue in the library of the State.

SEC. 4. The secretary shall also cause all public acts and resolves to be published in such newspapers as the legislature shall from time to time order, upon the following conditions:

1. Such laws shall be inserted in such newspapers in a type not less than the brevier size.

2. The publication of the laws shall commence at the close of each session, and be finished without delay, and nothing shall be allowed for the publication of any law which shall be unreasonably delayed.

3. No publisher shall receive any compensation for publishing any part of said laws, unless he has published all the public acts and resolves of the preceding session of the legislature.

4. The publisher shall furnish the treasurer with a file of the papers containing the acts and resolutions so published, and thereupon the treasurer shall issue his certificate thereof, and the governor, on the receipt of such certificate, shall draw his warrant upon the treasury therefor, at the rate of forty cents for every printed page of the pamphlet laws.

SEC. 5. The secretary shall deliver to each town in the State which has not received the same, for the use of such town, one copy of the laws of the United States which are now or may be in his possession, and shall deposit the residue in the library of the State.

SEC. 6. The clerks of the senate and of the house of representatives shall each lodge in the office of the secretary of state within ninety days after the close of each session of the legislature, a certified copy of their journals respectively, to be deposited in the State archives; and also prepare a like copy of their respective journals, with a digested index of the contents thereof, for the press, and shall deliver the same to the public printer within thirty days after the close of such session.

SEC. 7. The secretary, as soon as may be after such delivery,

shall distribute the same as follows: to each person composing the executive and legislative branches of the government for the time being; to the secretary and treasurer; to each of the clerks of the senate and house; to the New Hampshire Historical Society; to the American Antiquarian Society; to each historical society in the United States; to each town in the State; to each unincorporated place in the State in which there are ten or more ratable polls; one copy each.

SEC. 8. The secretary shall cause twenty-five copies additional of all laws, resolves and public documents printed by order of the legislature, to be printed and bound, and the governor may transmit the same to the agents of foreign countries in the United States authorized to make exchanges for the same.

CHAPTER 4.

OF THE PUBLIC PRINTER AND PUBLIC PRINTING.

IDENTICAL WITH

Laws of 1850, chapter 964.

SECTION

1. Election of public printer.
2. Compensation of public printer.
3. Duties of public printer.

SECTION

4. Compensation, how paid.
5. Compensation in other cases.

SECTION 1. There shall be chosen annually, during the session of the legislature, by joint ballot of the senate and house of representatives, a public printer, who shall hold his office for the term of one year, and until some other person is elected in his stead. He shall give bond, with sufficient sureties, in the sum of two thousand dollars, for the faithful performance of the duties of his office, and shall execute all the public printing for the legislative, executive and military departments of the State.

SEC. 2. For the faithful performance of his duties he shall receive the following compensation: for furnishing the legislature, at the commencement of each session, whenever the same shall be ordered, with five hundred printed copies of the rules of both branches of the legislature, with such other matter as it has been usual to print therewith, fifty-five dollars; for all bills printed for either branch of the legislature, one dollar per page for four hundred copies; for all blanks, circulars, proclamations for the use of the governor, secretary, treasurer, common school commissioner and adjutant and quartermaster general, printed on paper to their acceptance, forty cents per quire; for furnishing eight hundred and twenty-five copies of the laws of each session of the legislature,

to correspond with the edition for the year 1849, one dollar and thirty cents for each page of one copy; for furnishing seven hundred and fifty copies of the journals of the senate and house of representatives, to correspond with the edition for the year 1849, eighty cents for each page of one copy, each page to contain eleven hundred and twenty-five ems; for furnishing six hundred copies of the report of the school commissioner, report of asylum for the insane, state prison, bank commissioners and railroad commissioners, messages of the governor, and all similar documents, to correspond with the edition of 1849, and to contain eleven hundred and seventy-five ems per page, one dollar and fifteen cents per page of one copy; for all extra copies of the above documents, over the number above specified, he shall be allowed the same prices as are usually paid by individuals in similar cases, and for all other work executed for the State he shall receive a reasonable compensation, not to exceed that usually paid by individuals for similar work, to be determined by the governor and council.

SEC. 3. The state printer shall deliver to the secretary of state eight hundred and twenty-five printed copies of the laws aforesaid, within forty days, and seven hundred and fifty printed copies of the journals aforesaid, within ninety days from the time the copy thereof shall be placed in his hands, and all other work shall be executed and delivered within a reasonable time after it is ordered.

SEC. 4. The governor, with advice of council, shall draw his warrant on the treasurer for such sums as shall, upon examination, be found due to the state printer as aforesaid.

SEC. 5. If any advertising, other than the laws of each session, shall be ordered by the State into any newspaper, the compensation therefor shall be the same as is usually paid by individuals for the same character and amount of matter in the same paper.

TITLE II.

OF THE PROPERTY AND REVENUE OF THE STATE.

- CHAPTER 5. Of the state house.
 - CHAPTER 6. Of the state library.
 - CHAPTER 7. Of the state lands.
 - CHAPTER 8. Of the surplus revenue.
 - CHAPTER 9. Of the asylum for the insane.
 - CHAPTER 10. Of the state tax.
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CHAPTER 5.

OF THE STATE HOUSE.

IDENTICAL WITH

Chapter 5 of the Revised Statutes.

SECTION

- 1. Keeper to be appointed.
- 2. Repairs, how made.

SECTION

- 3. Penalty for throwing combustible matter in yard.

SECTION 1. A suitable person shall be appointed annually, by joint resolution of both branches of the legislature, to take charge of the state house and state house yard, to hold his office for the term of one year and until another shall be appointed.

SEC. 2. If at any time there is a necessity for immediate repairs to the public property, said keeper is authorized, with the consent of the governor, to make the same to a reasonable amount, and the governor, with advice of council, may draw his warrant therefor upon the treasury.

SEC. 3. If any person shall exhibit any fire works, or throw any fire ball or other combustible matter on fire, or set any combustible matter on fire, within the state house yard, or aid in or encourage the same, he shall forfeit a sum not exceeding ten dollars, to be recovered by complaint before a justice to the use of the complainant.

CHAPTER 6.

OF THE STATE LIBRARY.

COMPILED FROM

Chapter 6 of the Revised Statutes.
 “ 343, Laws of 1846.

SECTION

1. Secretary of state to be ex officio librarian.
2. Duties of librarian.
3. Who may take books from the library.
4. Regulations of the library.
5. Committee on the library.

SECTION

6. Selection of books for the library.
7. Books to be labeled, arranged and entered on catalogue.
8. Documents and pamphlets may be bound.
9. Products of nature and art exchanged.

SECTION 1. The secretary of state shall, ex officio, be the librarian of the state library, who shall appoint a deputy librarian to assist in taking charge of the library during the session of the legislature, which deputy shall receive the same compensation as that of a member. (*Laws of 1846, chap. 343, sec. 1; R. S., sec. 4, chap. 6.*)

SEC. 2. It shall be the duty of the librarian at all times, either by himself or his deputy, to take charge of the state library; to loan books according to the law now in force; to cause a catalogue of all the books, pamphlets and maps to be made, and procure three hundred copies thereof to be printed, and shall, on the second Wednesday of June annually, make a report to the legislature of the condition of the library, what books, maps and pamphlets have been added during the year, and what have been lost, if any. (*Laws of 1846, chap. 343, sec. 2.*)

SEC. 3. Books may be taken from the library by the members and clerks of the house and senate during each session, and at all times by the governor and council, the judges of the superior court and the secretary and treasurer of the State. Any person, (except during any session) may take books therefrom with the consent of the librarian, by depositing with him double the value thereof, from which any book injured or lost shall be replaced, and a compensation paid the librarian for his services, subject however to such rules as may be prescribed by the committee on the library. (*R. S., sec. 5.*)

SEC. 4. No book, map or papers shall be taken from the library by any person without the consent of the librarian, or without being entered as herein provided. During any session all books, maps and papers shall be returned to the librarian within one week, at other times within one month, and in all cases on or before the twentieth day of May annually. (*R. S., sec. 6.*)

SEC. 5. A joint committee consisting of two members of the house to be selected by the speaker, and one member of the senate to be selected by the president, shall be appointed annually, who with the governor shall select and purchase books for the library, and the sum of one hundred dollars is to be appropriated for said purpose annually, to be drawn by warrant from the governor with advice of the council. (*R. S., sec. 7.*)

SEC. 6. In selecting books for the library care shall be taken to procure full sets of the statutes and reports of the United States and of the several states, state papers, history, statistics, works on political economy, agriculture, geology, mineralogy and other arts and sciences, and other works having an important bearing upon the business and objects of legislation, to the exclusion of works of fiction. (*R. S., sec. 8.*)

SEC. 7. All books for the library shall be procured by the first day of January in each year, and placed under the care of the librarian to be by him duly entered, labeled and arranged in the library, and he shall cause a record of the same with their prices to be made and kept from year to year. (*R. S., sec. 9.*)

SEC. 8. The committee on the library, with the governor, may from time to time cause such pamphlets, documents, papers and manuscripts belonging to the State, as they may think proper, to be suitably arranged and bound for preservation at the expense of the State, and the governor with advice of the council may draw his warrant on the treasurer therefor. (*R. S., sec. 10.*)

SEC. 9. The sum of five hundred dollars is subject to the draft of the governor with advice of the council upon the treasurer, for the collection, preservation and exchange of original specimens of natural history and the productions of useful arts, to be expended under the direction of the governor. (*R. S., sec. 11.*)

CHAPTER 7.

OF THE STATE LANDS.

IDENTICAL WITH

Chapter 7 of the Revised Statutes.

SECTION

1. Land commissioners appointed.
2. " how sold and conveyed.
3. Deeds recorded by secretary.

SECTION

4. Compensation of commissioners.
5. Commissioner to make report and pay over money.

SECTION 1. The governor with the advice of the council may appoint some suitable person or persons, not exceeding two, as land commissioners, who shall be sworn to the faithful performance

of the duties of said office, and shall hold their office during the pleasure of the executive for the time being.

SEC. 2. Said commissioners shall advertise and sell such and so much of the public land of the State as they think expedient, or sell or lease the same at private sale, and execute deeds thereof which shall be effectual to convey all the right and title of this State therein, except the right of jurisdiction.

SEC. 3. All deeds of state lands executed by any officer in behalf of the State shall be recorded in the records of the State by the secretary; and no such deed, nor any lease nor other conveyance of any interest in such lands shall be of any effect, unless recorded as aforesaid within one year from the date of the same.

SEC. 4. All expense of surveying and conveying such land shall be paid by the person to whom the same shall be conveyed, and the commissioners shall receive six per cent. of the proceeds of the sales of all such lands paid into the treasury, in full compensation for their services.

SEC. 5. Every commissioner shall deposit all money or securities by him received, as soon as may be after their receipt, with the treasurer of the State, deducting the six per cent. aforesaid, and shall also annually, in the month of June, make report to the governor of all lands by him sold and conveyed as aforesaid, the quantity, value, location and description of the same, and such other information upon the subject as may be deemed useful.

CHAPTER 8

OF THE SURPLUS REVENUE.

IDENTICAL WITH

Chapter 8 of the Revised Statutes.

SECTION

1. Town liable for surplus revenue.
2. Penalty for neglect to re-pay.
3. Disposal of same by town.
4. Share not called for to be loaned.

SECTION

5. Share of unincorporated places to be loaned.
6. Such shares, how received afterwards.
7. When recalled by U. States, how paid.

SECTION 1. Every town or place in this State that has received or shall receive any portion of the public money of the United States deposited with this State, shall be accountable for the return of the same or any part thereof whenever called for by the treasurer of this State upon the requisition of the United States.

SEC. 2. If any town or place refuses or neglects to pay the same on demand, the treasurer may issue his extent against such town or place for their proportion of said money, and the persons

from whom said sum shall be levied, shall have contribution against the other inhabitants or owners of property situate in said town for the sum so levied, and for all costs and damages sustained, with double costs of suit.

SEC. 3. Any town or place, at a legal meeting for that purpose, may make such disposition of the public money therewith deposited as shall be deemed equitable and expedient.

SEC. 4. If any town or place has neglected or shall neglect to receive its proportion of the public money aforesaid, the treasurer shall loan the same, taking such security therefor as shall be approved by the governor. All interest which shall so accrue shall be divided among all such towns ratably, and shall be paid over to them annually when their state tax shall be paid.

SEC. 5. The treasurer shall also loan in the same manner, for the benefit of the unincorporated places in this State, their proportion of the public money aforesaid, and shall pay over their respective proportions of the interest accruing thereon in the same manner as the literary fund is paid.

SEC. 6. When any unincorporated place shall become incorporated or annexed to any town, or when any town which has not received its proportion, at a meeting warned and holden for the purpose, shall vote to receive the same and pledge the faith and security of the town for its safe keeping and re-payment on demand, and appoint an agent authorized to receive the same and execute such a certificate of deposit therefor as has been given by other towns, and shall give to the treasurer six months notice thereof, the treasurer shall pay over to such agent the amount retained for such town or place, and all interest which has accrued thereon, upon receiving an attested copy of the records of the proceedings of the meeting of said town or place authorizing said agent to receive said money, and the certificate of deposit executed by said agent in the manner aforesaid.

SEC. 7. Whenever any portion of the public money thus deposited shall be called for by the United States, the treasurer of the State, upon a warrant of the governor with advice of the council, shall re-pay the same out of any money in the treasury, and if the same is not sufficient, the treasurer with the consent of the governor is authorized to borrow such sum as may be necessary therefor at a rate of interest not exceeding six per cent., and shall re-pay said loans with the interest thereon whenever payable, out of any money in the treasury not otherwise appropriated.

CHAPTER 9.

OF THE ASYLUM FOR THE INSANE.

COMPILED FROM

Chapter 9 of the Revised Statutes.

" 88, Laws of 1844.

" 246, Laws of 1845.

SECTION

1. Corporate name of the asylum.
2. Trustees, how appointed.
3. Tenure of office of the trustees.
4. Trustees to manage the affairs of the asylum.
5. " to appoint officers, &c.
6. " not to receive compensation.
7. " to make by-laws and regulations.
8. " may hold property in trust.
9. " shall make report annually.
10. Board of visitors and their duties.
11. Persons dangerous to be at large may be sent to the asylum.
12. Insane persons confined in jail may be sent.

SECTION

13. Insane paupers, how sent by town.
14. " county paupers may be sent by court of common pleas.
15. Support of insane committed by court.
16. Parent, guardian, &c., may send.
17. How discharged from asylum.
18. Property of asylum exempt from taxation.
19. Governor may remove insane convicts from state prison to insane asylum.
20. If convict is restored, to serve out rest of term in prison.
21. Governor authorized to draw warrant on the treasury.

SECTION 1. The insane asylum at Concord is hereby declared to be a corporation under the name of The New Hampshire Asylum for the Insane.

SEC. 2. The government of the asylum shall be vested in twelve trustees to be appointed and commissioned by the governor with the advice of the council, and all vacancies shall be filled in the same manner.

SEC. 3. The trustees shall be classified and commissioned in such a manner that the offices of three trustees shall become vacant annually.

SEC. 4. The trustees shall take charge of the property and concerns of the asylum; shall see that its affairs are conducted properly; may enter into and bind the asylum by such contracts relative to the support of patients and the affairs of the asylum, as they may deem advantageous, and may receive, appropriate, control, convey or invest any property given to or owned by the asylum in such manner as they may think expedient.

SEC. 5. The trustees shall appoint a secretary who shall keep a full and fair record of their proceedings; a treasurer who shall give bond for the faithful discharge of his duty, and such physicians, officers and assistants, with such salaries and allowances as may be from time to time found necessary.

SEC. 6. No trustee shall receive any compensation for his services as trustee, but expenses necessarily incurred by him shall be paid by the asylum.

SEC. 7. The trustees may make such regulations for their own government, for the government of the asylum and all persons connected therewith, and for the admission and care of patients, and the same may from time to time alter as convenience may require.

SEC. 8. The trustees may take and hold in trust for the asylum any grant or devise of real estate, or any donation or bequest of personal property, and may apply the same, unless otherwise restricted, to lessen the expenses of the indigent insane.

SEC. 9. The trustees shall make to the legislature annually duplicate reports of the receipts and expenditures of the asylum, the number of patients admitted and discharged during the year, and all other matters connected with the general interests of the asylum, one copy of which shall be presented to the senate and one copy to the house of representatives. (*Sec. 9 and amendment laws of 1844, chap. 88.*)

SEC. 10. The governor and council, the president of the senate and speaker of the house of representatives for the time being, shall constitute the board of visitors of the asylum; shall visit and inspect the same when necessary; shall examine into the condition of the patients and regulations and general management of the asylum; shall see that the design thereof is carried into full effect, and make to the legislature annually duplicate reports, one copy of which shall be presented to the senate and one copy to the house of representatives. (*Sec. 10 and amendment laws of 1844, chap. 88.*)

SEC. 11. If any insane person is in such condition as to render it dangerous that he should be at large, the judge of probate upon petition by any persons, and such notice to the selectmen of the town in which such insane person is, or to his guardian or any other person, as the judge may order, which petition may be filed, notice issued and a hearing had in vacation or otherwise, may commit such insane person to the asylum.

SEC. 12. If any insane person is confined in any jail, the court of common pleas may order him to be sent to the asylum, if they shall think it expedient.

SEC. 13. Any insane pauper supported by any town, may be sent to the asylum by order of the overseers of the poor of such town, and there supported at the expense of such town, and such expense may be recovered by such town of the county, town or person chargeable with the support of such pauper, in the same manner as if he had been supported in and by the town.

SEC. 14. If the overseers neglect to make such order in relation to any insane county pauper, the court of common pleas or any two judges thereof in vacation, may order such pauper to be sent to the asylum and there supported at the expense of the county.

SEC. 15. Any insane person committed to the asylum by any court or judge of probate, shall be supported by the county from which he was committed, and any sum so paid may be recovered by the county of any county, town or person chargeable with his support.

SEC. 16. The parent, guardian or friends of any insane person may cause him to be sent to the asylum with the consent of the trustees, and there supported on such terms as they may agree.

SEC. 17. Any person committed to the asylum may be discharged by any three of the trustees, or by any justice of the superior court, whenever the cause of commitment ceases, or a further residence at the asylum is in their opinion not necessary.

SEC. 18. The property of the asylum is exempted from taxation.

SEC. 19. The governor, by and with the advice of council, be and he hereby is vested with power to remove to the New Hampshire asylum for the insane, to be there kept at the expense of the State, any person confined in the state prison, who is now or may hereafter become insane. (*Laws of 1845, chap. 246, sec. 1.*)

SEC. 20. Any person so removed, who shall be restored to his right mind before the expiration of the term for which he was sentenced to imprisonment, shall upon such restoration be again returned to the state prison, there to serve out the remainder of his sentence, unless sooner discharged by the governor and council. (*Laws of 1845, chap. 246, sec. 2.*)

SEC. 21. The governor, by and with the advice of the council, may draw his warrant upon the treasury for such sums as may be necessary to carry into effect the object of the two preceding sections of this chapter. (*Laws of 1845, chap. 246, sec. 3.*)

CHAPTER 10.

OF THE STATE TAX.

COMPILED FROM

Chapter 10 of the Revised Statutes.

" 1276, Laws of 1852.

SECTION

1. Proportion of public taxes.
2. Warrant therefor to be issued.

SECTION

3. Warrant directed to selectmen.
4. Delinquencies to be reported.

SECTION 1. Of every thousand dollars of public taxes hereafter to be raised, the proportion which each town and place shall pay, and for which the treasurer of the State is hereby authorized to issue his warrant, shall be as follows, to wit :

COUNTY OF ROCKINGHAM.

Atkinson,	one dollar ninety-one cents,	\$ 1 91
Auburn,	two dollars eighteen cents,	2 18
Brentwood,	two dollars seventy-nine cents,	2 79
Candia,	three dollars seventy-five cents,	3 75
Chester,	three dollars thirty cents,	3 30
Danville,	one dollar seventy-seven cents,	1 77
Deerfield,	five dollars seven cents,	5 07
Derry,	six dollars forty-four cents,	6 44
East Kingston,	two dollars forty-six cents,	2 46
Epping,	four dollars fifty-four cents,	4 54
Exeter,	twelve dollars eighteen cents,	12 18
Gosport,	thirteen cents,	13
Greenland,	three dollars ten cents,	3 10
Hampstead,	two dollars eighty-three cents,	2 83
Hampton,	four dollars fifty-eight cents,	4 58
Hampton Falls,	three dollars three cents,	3 03
Kensington,	two dollars twenty-six cents,	2 26
Kingston,	three dollars seventy-four cents,	3 74
Londonderry,	five dollars twenty-two cents,	5 22
New Castle,	one dollar thirty-six cents,	1 36
Newington,	one dollar sixty cents,	1 60
New Market,	six dollars ninety-eight cents,	6 98
Newton,	two dollars twelve cents,	2 12
North Hampton,	two dollars eighty-five cents,	2 85
Northwood,	three dollars fifty-three cents,	3 53
Nottingham,	three dollars twenty-nine cents,	3 29
Plaistow,	two dollars twenty-five cents,	2 25
Poplin,	one dollar seventy-eight cents,	1 78
Portsmouth,	forty-eight dollars fifteen cents,	48 15
Raymond,	two dollars forty-eight cents,	2 48
Rye,	three dollars fifty-six cents,	3 56
Salem,	four dollars ninety-one cents,	4 91
Sandown,	two dollars fourteen cents,	2 14
Seabrook,	three dollars five cents,	3 05
So. New Market,	one dollar ninety-nine cents,	1 99
South Hampton,	two dollars forty-four cents,	2 44
Stratham,	three dollars fifty-eight cents,	3 58
Windham,	two dollars fifty-six cents,	2 56
		<hr/> \$171 90

COUNTY OF STRAFFORD.

Barrington,	four dollars sixty-seven cents,	4 67
Dover,	twenty eight dollars ninety cents,	28 90
Durham,	four dollars sixty-five cents,	4 65
Farmington,	six dollars twenty-six cents,	6 26
Lee,	two dollars ninety-seven cents,	2 97
Madbury,	one dollar seventy-four cents,	1 74

Middleton,	one dollar sixteen cents,	1 16
Milton,	three dollars eighty-three cents,	3 83
New Durham,	two dollars seventy-three cents,	2 73
Rochester,	eight dollars eighty-three cents,	8 83
Rollinsford,	seven dollars thirty cents,	7 30
Somersworth,	sixteen dollars forty-two cents,	16 42
Strafford,	four dollars forty-six cents,	4 46
		<hr/> \$93 92

COUNTY OF BELKNAP.

Alton,	five dollars seventy-five cents,	5 75
Barnstead,	five dollars forty-nine cents,	5 49
Centre Harbor,	one dollar twenty-five cents,	1 25
Gilmanton,	eight dollars eighty-two cents,	8 82
Gilford,	five dollars seventy-nine cents,	5 79
Meredith,	eight dollars sixty-six cents,	8 66
New Hampton,	three dollars fifty-five cents,	3 55
Sanbornton,	seven dollars seventy-six cents,	7 76
		<hr/> \$47 07

COUNTY OF CARROLL.

Albany,	sixty-four cents,	64
Chatham,	ninety-two cents,	92
Brookfield,	one dollar twenty-one cents,	1 21
Conway,	three dollars eighty-five cents,	3 85
Eaton,	two dollars fifty cents,	2 50
Effingham,	two dollars forty-three cents,	2 43
Freedom,	two dollars,	2 00
Moultonborough,	three dollars twelve cents,	3 12
Ossipee,	three dollars sixty cents,	3 60
Sandwich,	four dollars sixty cents,	4 60
Tamworth,	two dollars seventy-two cents,	2 72
Tuftonborough,	three dollars twenty-eight cents,	3 28
Wakefield,	two dollars eighty-one cents,	2 81
Wolfborough,	four dollars sixty-six cents,	4 66
		<hr/> \$38 34

COUNTY OF MERRIMACK.

Allenstown,	one dollar fifty-eight cents,	1 58
Andover,	three dollars sixty-six cents,	3 66
Bradford,	three dollars eighty-three cents,	3 83
Bow,	three dollars fifteen cents,	3 15
Boscawen,	seven dollars thirty-two cents,	7 32
Canterbury,	five dollars fifty-one cents,	5 51
Chichester,	two dollars fifty cents,	2 50
Concord,	thirty-three dollars forty-six cents,	33 46
Dunbarton,	three dollars nine cents,	3 09
Epsom,	three dollars twenty-two cents,	3 22
Franklin,	four dollars forty-nine cents,	4 49

Henniker,	five dollars fifty-seven cents,	5 57
Hooksett,	four dollars eighty-one cents,	4 81
Hopkinton,	five dollars ninety-seven cents,	5 97
Loudon,	five dollars twenty-four cents,	5 24
Newbury,	two dollars seventeen cents,	2 17
New London,	three dollars two cents,	3 02
Northfield,	four dollars six cents,	4 06
Pembroke,	five dollars thirty cents,	5 30
Pittsfield,	five dollars sixteen cents,	5 16
Salisbury,	three dollars ninety-eight cents,	3 98
Sutton,	three dollars seventy-three cents,	3 73
Warner,	five dollars fifty-seven cents,	5 57
Wilmot,	two dollars fifty-one cents,	2 51

\$128 90

COUNTY OF HILLSBOROUGH.

Amherst,	six dollars thirteen cents,	6 13
Antrim,	three dollars forty cents,	3 40
Bedford,	seven dollars one cent,	7 01
Bennington,	one dollar fifty-five cents,	1 55
Brookline,	two dollars eighteen cents,	2 18
Deering,	three dollars sixty-eight cents,	3 68
Francestown,	five dollars nine cents,	5 09
Goffstown,	six dollars seventeen cents,	6 17
Greenfield,	two dollars fifty-seven cents,	2 57
Hancock,	three dollars sixty-seven cents,	3 67
Hillsborough,	five dollars thirty cents,	5 30
Hollis,	five dollars seventy-eight cents,	5 78
Hudson,	four dollars three cents,	4 03
Litchfield,	two dollars seventeen cents,	2 17
Lyndeborough,	three dollars seventeen cents,	3 17
Manchester,	sixty-one dollars eighty-three cents,	61 83
Mason,	four dollars fifty-five cents,	4 55
Merrimack,	four dollars eighty cents,	4 80
Milford,	eight dollars forty-nine cents,	8 49
Mont Vernon,	two dollars sixty-three cents,	2 63
Nashua,	twenty-two dollars fifty-six cents,	22 56
Nashville,	thirteen dollars ninety cents,	13 90
New Ipswich,	six dollars sixty-nine cents,	6 69
New Boston,	five dollars twelve cents,	5 12
Pelham,	four dollars sixty-five cents,	4 65
Peterborough,	eight dollars eleven cents,	8 11
Sharon,	one dollar sixteen cents,	1 16
Temple,	two dollars seventeen cents,	2 17
Weare,	six dollars sixty-six cents,	6 66
Wilton,	four dollars fifty-six cents,	4 56
Windsor,	sixty-three cents,	63

\$220 41

COUNTY OF CHESHIRE.

Alstead,	four dollars ninety-one cents,	4 91
Chesterfield,	five dollars twenty-one cents,	5 21
Dublin,	three dollars ninety-seven cents,	3 97
Fitzwilliam,	four dollars forty-nine cents,	4 49
Gilsum,	one dollar sixty-nine cents,	1 69
Hinsdale,	four dollars fourteen cents,	4 14
Jaffrey,	five dollars thirty-eight cents,	5 38
Keene,	sixteen dollars ninety cents,	16 90
Marlborough,	two dollars eighty cents,	2 80
Marlow,	two dollars fifty-seven cents,	2 57
Nelson,	two dollars twenty-eight cents,	2 28
Richmond,	two dollars eighty-four cents,	2 84
Rindge,	four dollars sixty-one cents,	4 61
Roxbury,	eighty-seven cents,	87
Stoddard,	three dollars sixty cents,	3 60
Sullivan,	one dollar ninety-one cents,	1 91
Surry,	one dollar sixty-two cents,	1 62
Swanzy,	five dollars fifty-one cents,	5 51
Troy,	two dollars forty-five cents,	2 45
Walpole,	ten dollars sixty-one cents,	10 61
Westmoreland,	five dollars thirty-three cents,	5 33
Winchester,	six dollars eighty-six cents,	6 86
		<u>\$100 55</u>

COUNTY OF SULLIVAN.

Acworth,	three dollars sixty-three cents,	3 63
Charlestown,	seven dollars sixty-seven cents,	7 67
Claremont,	sixteen dollars four cents,	16 04
Cornish,	five dollars thirty-three cents,	5 33
Croydon,	two dollars forty-one cents,	2 41
Goshen,	one dollar fifty-eight cents,	1 58
Grantham,	two dollars thirty cents,	2 30
Langdon,	two dollars ninety-four cents,	2 94
Lempster,	two dollars sixty-seven cents,	2 67
Newport,	six dollars three cents,	6 03
Plainfield,	four dollars seventy-three cents,	4 73
Springfield,	two dollars forty-seven cents,	2 47
Sunapee,	one dollar ninety cents,	1 90
Unity,	two dollars eighty-nine cents,	2 89
Washington,	three dollars twenty-five cents,	3 25
		<u>\$65 84</u>

COUNTY OF GRAFTON.

Alexandria,	two dollars forty-six cents,	2 46
Bath,	four dollars twelve cents,	4 12
Benton,	ninety-two cents,	92
Bethlehem,	one dollar eighty-four cents,	1 84

Bridgewater,	one dollar twenty-five cents,	1 25
Bristol,	two dollars seventy-one cents,	2 71
Campton,	three dollars eleven cents,	3 11
Canaan,	four dollars twenty-six cents,	4 26
Danbury,	two dollars ten cents,	2 10
Dorchester,	one dollar fifty cents,	1 50
Ellsworth,	forty-one cents,	41
Enfield,	four dollars eighty-four cents,	4 84
Franconia,	one dollar fifty-seven cents,	1 57
Grafton,	two dollars eighty cents,	2 80
Groton,	one dollar sixty-two cents,	1 62
Hanover,	six dollars forty-six cents,	6 46
Haverhill,	six dollars fifty-two cents,	6 52
Hebron,	one dollar thirteen cents,	1 13
Hill,	two dollars forty-four cents,	2 44
Holderness,	four dollars eighteen cents,	4 18
Landaff,	two dollars twenty-three cents,	2 23
Lebanon,	eight dollars sixty-seven cents,	8 67
Lisbon,	three dollars seventy-eight cents,	3 78
Lincoln,	nineteen cents,	19
Littleton,	four dollars twenty-three cents,	4 23
Lyman,	three dollars twenty-two cents,	3 22
Lyme,	five dollars seventy cents,	5 70
Orange,	eighty-eight cents,	88
Orford,	five dollars seventy cents,	5 70
Piermont,	two dollars ninety-nine cents,	2 99
Plymouth,	three dollars thirty cents,	3 30
Rumney,	two dollars ninety-three cents,	2 93
Thornton,	two dollars twelve cents,	2 12
Warren,	one dollar ninety-two cents,	1 92
Waterville,	twenty cents,	20
Wentworth,	two dollars ninety-six cents,	2 96
Woodstock,	ninety-nine cents,	99

\$108 25

COUNTY OF COös.

Bartlett,	one dollar thirty-seven cents,	1 37
Berlin,	sixty-five cents,	65
Bean's Purchase,	three cents,	3
Carroll,	seventy-five cents,	75
Cambridge,	twenty cents,	20
Clarksville,	thirty-one cents,	31
Chandler's Purchase,	one cent,	1
Colebrook,	one dollar ninety-five cents,	1 95
Crawford's Purchase,	one cent,	1
Columbia,	one dollar twenty-seven cents,	1 27
Dalton,	one dollar forty-two cents,	1 42
Dummer,	thirty-one cents,	31
Dixville,	ten cents,	10

Dix's Grant,	one cent,	1
Errol,	thirty-six cents,	36
Ervin's Location,	one cent,	1
Gorham,	forty-eight cents,	48
Green's Grant,	one cent,	1
Grant to Gilmanton and Atkinson Academy,	four cents,	4
Hart's Location,	seven cents,	7
Hale's Location,	two cents,	2
Kilkenny,	two cents,	2
Jackson,	one dollar one cent,	1 01
Jefferson,	one dollar seven cents,	1 07
Lancaster,	three dollars sixty-three cents,	3 63
Low and Burbank's Grant,	three cents,	3
Milan,	ninety-seven cents,	97
Martin's Location,	one cent,	1
Millsfield,	eleven cents,	11
Nash and Sawyer's Location,	two cents,	2
Northumberland,	one dollar twenty-seven cents,	1 27
Odell's Township,	four cents,	4
Pittsburg,	fifty-six cents,	56
Pinkham's Grant,	four cents,	4
Randolph,	twenty-six cents,	26
Stark,	eighty-two cents,	82
Stratford,	one dollar twenty-three cents,	1 23
Shelburne,	ninety-eight cents,	98
Stewartstown,	one dollar thirty-two cents,	1 32
Success,	ten cents,	10
Sargent's Purchase,	one cent,	1
Second College Grant,	three cents,	3
Thompson's and Meserve's Purchase,	one cent,	1
Wentworth's Location,	three cents,	3
Whitefield,	one dollar eighty-seven cents,	1 87
		<u>\$24 82</u>

SEC. 2. The same shall be the proportion of assessment of all public taxes until a new proportion shall be made and established; and the treasurer for the time being shall issue his warrant accordingly. (*Laws of 1852, chap. 1276.*)

SEC. 3. Whenever any tax shall be ordered to be raised by the State on or before any day, the treasurer shall make out the proportion thereof to be raised by each town and place, according to the apportionment of public taxes for the time being, and shall seasonably issue a warrant, under his hand and the seal of his office, to the selectmen of such town or place, directing them to assess said sum and to pay the same into the treasury of the State on or before the day specified, and he may issue an extent for all sums which shall remain unpaid after said day.

SEC. 4. The treasurer shall report to the house of representatives annually, a particular statement of all delinquencies in the payment of said tax; and of all extents issued therefor.

TITLE III.

OF CERTAIN STATE OFFICERS, AND THE TEN- URE OF OFFICE.

- CHAPTER 11. Of the secretary of state.
 CHAPTER 12. Of the state treasurer.
 CHAPTER 13. Of the attorney general and solicitors.
 CHAPTER 14. Of notaries public and commissioners in other states.
 CHAPTER 15. Of the tenure and oath of office.
 CHAPTER 16. Of filling vacancies.

CHAPTER 11.

OF THE SECRETARY OF STATE.

COMPILED FROM

Chapter 11 of the Revised Statutes.

Laws of 1848, chapter 759.

" " 1849, " 877.

" " 1843, " 59.

" " 1851, " 1152.

SECTION

1. The seal of the State.
2. Blanks to be furnished by State.
3. Blanks, &c., how distributed.

SECTION

4. Papers to be arranged and copies given.
5. To subscribe for N. H. Reports.

SECTION 1. The seal of the State of New Hampshire shall be two inches in diameter, circular, with the following device and inscription:—a field encompassed with laurels; around the field in capital letters, SIGILLUM REIPUBLICÆ NEO-HANTONIENSIS; on the field a rising sun, and a ship on the stocks with the American banner displayed. It shall be kept and affixed by the secretary of state.

SEC. 2. The secretary shall prepare annually and distribute to the clerk of each town and place seasonably, before every meeting for the choice of state or county officers, representatives in congress, or electors of president and vice-president, printed blanks for the return of votes for said officers, with such instructions as may be deemed necessary or useful, which blanks shall be used by said clerks in making said returns.

SEC. 3. All blanks, laws, journals or packages directed to be sent by the secretary to the several counties, shall be suitably di-

rected and sent to the office of the register of deeds for the county, who shall distribute them; and all blanks, laws, journals and packages, directed to be sent by him to the several towns in this State, shall be sent by mail, or by public or private express, as he may judge expedient, directed to the proper officer or person, and left at the post office in the town where such officer or person resides. (*R. S., sec. 3; laws, 1849, chap. 877; laws, 1848, chap. 759.*)

SEC. 4. The secretary shall arrange methodically, fold uniformly, file and label all the papers in his office belonging to the State, and preserve the same carefully, and he shall give copies thereof duly authenticated, whenever required and paid therefor.

SEC. 5. He shall subscribe for and take two hundred and fifty copies of each number of the New Hampshire reports which may be published, for the use of the State, until otherwise directed, and shall deliver one copy to each town, one copy to the clerk of the court of common pleas in each county for the use of said court; and shall deposit the remainder in the state library. He shall also procure a sufficient number of copies of said reports, which now are or may hereafter be published, in good binding, to supply the government of the United States and the several states and territories of the Union with one full copy each, including such of said reports as may have been already furnished and transmitted, and cause the same to be duly transmitted to the secretaries thereof. In addition thereto, he shall procure one hundred and twenty-five copies of each volume of said reports, commencing with the sixteenth volume of the "new series," *provided*, the same can be procured for four dollars per volume, of the size and style of the new series already published. Such reports, when procured, shall be exchanged for other works on law and history to be deposited in the state library. (*R. S., sec. 5; laws of 1843, chap. 59; laws of 1851, chap. 1152.*)

CHAPTER 12.

OF THE STATE TREASURER.

COMPILED FROM

Chapter 12 of the Revised Statutes.
Laws of 1851, chap. 1142.

SECTION

1. Treasurer, how chosen.
2. " to give bond.
3. " to provide books.
4. " to keep proper accounts.
5. " to pay out money.

SECTION

6. Treasurer, to effect loans.
7. " how removed.
8. Commissioner, how appointed.
9. Bond, how prosecuted.

SECTION 1. The treasurer of the State shall be chosen annually.

SEC. 2. Before entering upon the duties of his office, he shall give bond in the penal sum of two hundred thousand dollars, with sufficient sureties to be approved by the governor and council, conditioned for the faithful discharge of the duties of his office, which bond shall be deposited and safely kept in the office of the secretary of state.

SEC. 3. He shall provide and have at all times at the expense of the State, a suitable book or books for records, in which he shall keep a fair and correct account of all sums of money received into and paid from the treasury during the year.

SEC. 4. He shall keep a separate account with each officer of the State who receives a salary therefrom, in which shall be regularly entered all sums of money paid to each on account of such salary, specifying the amount paid on account of each year's salary; and all sums which may be paid from the treasury, on account of appropriations made by any general law of the State, shall be entered on separate accounts which shall be opened for the purpose, so that the amount appropriated and paid under each particular act may distinctly appear.

SEC. 5. He shall pay out of any moneys not otherwise appropriated, all sums due by virtue of general or specific appropriations of the legislature, on warrants drawn by the executive, and the principal or interest of all loans which may at any time become due.

SEC. 6. Whenever any money due from the State on existing loans may be demanded, the treasurer is authorized to effect, on the credit and for the use of the State, other loans to pay the same, on time, from three to five years, as to him may seem necessary and proper, and at the lowest rate of interest at which the same can be procured, not exceeding six per cent. per annum; said loans not to exceed in all the sum of fifty-five thousand dollars. (*Laws of 1851, chap. 1142.*)

SEC. 7. Upon representation made to the governor by any person, under oath, that the treasurer is insane, or manifestly insolvent, or that he has absconded, or concealed himself, or is guilty of any conduct which is to the hazard of the public treasure, the governor and council shall examine into the truth of such representation, and if it shall appear to be true, shall remove him from office and declare the same vacant. (*R. S., sec. 6.*)

SEC. 8. Upon the death, resignation, or removal of the treasurer, the governor, with advice of the council, shall appoint some suitable person as commissioner, to take charge of all the books, money and papers in said office, and to perform all the duties of treasurer until the next session of the legislature. Before any such commissioner shall enter upon the discharge of said duties, he shall give bond in the same manner as is hereinbefore provided for the treasurer. (*R. S. sec. 7.*)

Sec. 9. In case of any delinquency of the treasurer, the attorney general upon the order of the governor and council, or if the legislature shall direct, shall commence a suit upon his official bond, and shall prosecute the same to final judgment, execution and satisfaction. (*R. S., sec. 8.*)

CHAPTER 13.

OF THE ATTORNEY GENERAL AND SOLICITORS.

IDENTICAL WITH

Chapter 13 of the Revised Statutes.

SECTION

1. Attorney general to be appointed.
2. Duties of attorney general.
3. Shall give bond to the State.
4. Appointment of county solicitors.
5. Duties of county solicitors.
6. Shall give bond to the State.

SECTION

7. Bonds to be lodged with secretary.
8. To be put in suit for the benefit of any person interested.
9. Attorney general and solicitors to render account annually.

SECTION 1. There shall be an attorney general, to be appointed by the governor and council in the manner provided by the constitution, as a vacancy may occur.

Sec. 2. The attorney general shall prosecute all indictments and informations, and defend all suits and processes against the State, but he shall not be retained or concerned in the prosecution or defence of any suit before the court of common pleas, unless where the State is a party thereto, or he is a party or interested therein.

Sec. 3. The attorney general shall give bond to the State with sufficient sureties, to be approved by one or more justices of the superior court of judicature, in the penal sum of five thousand dollars, conditioned to account for and pay over all money by him received as attorney general, to the State, county or individual to whom the same belongs, according to law.

Sec. 4. There shall be a solicitor for each county, to be appointed by the governor and council in the manner provided by the constitution, as vacancies may occur.

Sec. 5. It shall be the duty of the solicitor of each county to take charge of all suits and prosecutions in the name of the State, pending in the court of common pleas of such county; to prosecute or defend any suit in which such county is a party or interested; to examine and admit all claims against such county; to tax all bills of cost accruing in any proceeding where the State or county is interested, subject to be reexamined and increased or diminished

by the court; and in the absence of the attorney general to perform all the duties of said office for such county.

SEC. 6. Each solicitor shall give bond to the State with sufficient sureties, to be approved by one or more justices of the court of common pleas of the county, in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office, and the payment of all money by him received as solicitor, to the State, county or individual to whom the same belongs, according to law.

SEC. 7. The bond of the attorney general and of each solicitor shall be lodged with and kept by the secretary of state.

SEC. 8. Any such bond may be put in suit by leave of the court of common pleas, at the expense and for the benefit of any person interested therein, in the same manner as sheriffs' bonds may be sued.

SEC. 9. The attorney general and each solicitor shall annually, on or before the first day of June, render to the treasurer of the State and of each county a true account of all money by him received belonging to the State or to such county.

CHAPTER 14.

OF NOTARIES PUBLIC AND COMMISSIONERS.

IDENTICAL WITH

Chapter 14 of the Revised Statutes.

NOTARIES PUBLIC.	SECTION
SECTION	7. To be open to inspection.
1. Duties of notary public.	8. Copies furnished by secretary.
2. When ceasing to be in office, records to be filed with secretary of state.	COMMISSIONERS.
3. Effect of notarial protest.	9. Commissioners in other states appointed.
4. In case of death, to be filed by administrator.	10. Oath, how administered.
5. May be demanded by secretary.	11. Powers of commissioner.
6. Neglect to deliver, penalty.	12. Effect of his certificate.

NOTARIES PUBLIC.

SECTION 1. Every notary public, in addition to the usual powers of such office, shall have the same powers as a justice of the peace in relation to depositions and the acknowledgment of deeds and other instruments, and his certificate of any such official act shall be as valid as that of a justice of the peace.

SEC. 2. When any notary shall remove from the State, resign,

or from any cause cease to act in said capacity, he shall, within six months thereafter, deposit all his notarial records, and all papers filed in his office, in the office of the secretary of state.

SEC. 3. The protest of any bill of exchange, note, or order, duly certified by any notary public under his hand and official seal, shall be evidence of the facts stated in such protest, and of the notice given to the drawer or endorsers.

SEC. 4. If any notary shall die or become insane, it shall be the duty of his administrator, executor or guardian to deposit his records and papers in the manner aforesaid.

SEC. 5. The secretary of state may demand and receive any such records and papers of any person in whose possession the same may be.

SEC. 6. If any person in whose possession any such records or papers may be, shall neglect or refuse to deliver the same to said secretary or his order, on demand, or shall knowingly destroy or conceal any such records, he shall be punished by fine not exceeding one thousand dollars, one half for the use of the prosecutor, and the other half to the use of the county of which said notary is or was last an inhabitant, and shall also be liable for damages to any person injured in an action on the case.

SEC. 7. All notarial records and papers shall be kept by the secretary safely, and in such manner that reference thereto may easily be had, and shall be open to the examination of any person interested therein.

SEC. 8. The secretary shall make out and certify copies of any such records and papers, upon payment or tender of the fees therefor, and his certificate shall have the same validity as if made by such notary himself.

COMMISSIONERS.

SEC. 9. The governor, with the advice of the council, may appoint in each of the United States, and in each district and territory, a commissioner or commissioners, to continue in office during the term of five years.

SEC. 10. Before any commissioner shall perform any duty of his office, he shall take and subscribe an oath or affirmation before a judge of the superior court of the State in which such commissioner resides, that he will well and faithfully perform all the duties of such office; which oath shall be filed by him in the office of the secretary of state, within six months after the taking of the same.

SEC. 11. Such commissioners may administer oaths, take depositions and affidavits to be used in this State, and notify parties of the time and place thereof, and take the acknowledgment of deeds or instruments to be used or recorded in this State, in the same manner as a justice of the peace for this State might do.

SEC. 12. Any oath administered by any such commissioner,

any deposition or affidavit taken by him, and any acknowledgment certified by him, shall be as effectual in law, for all purposes, as if certified by any justice of the peace in this State.

CHAPTER 15.

OF THE TENURE AND OATH OF OFFICE IN CERTAIN CASES.

COMPILED FROM

Chapter 15 of the Revised Statutes.
Laws of 1848, chap. 624.

SECTION

1. Judges and sheriffs must file certificate of age.
2. After 70 years of age incapacitated.
3. Tenure of office to be for five years in certain cases.
4. Shall take oath of office before entering on duty.

SECTION

5. Persons scrupulous may *affirm*.
6. Ceremony of swearing, how performed.
7. Official oaths, by whom administered.
8. Justice shall record oaths and make a return thereof to the secretary of state.
9. Officers removable by address.

SECTION 1. No person appointed a judge of any court, judge of probate or sheriff of any county, shall exercise such office or perform any act therein, or receive any fee or salary therefor, until he shall have deposited in the office of the secretary of state a copy of the record of his birth, attested by the clerk of the town in which he was born, or, if there is no such record, an affidavit sworn to and subscribed by him, stating according to the best of his belief the date and place of his birth.

SEC. 2. If any such officer shall continue to hold such office after he has attained the age of seventy years, upon satisfactory evidence thereof, the governor and council shall remove such officer, notifying him of such removal, and shall fill such vacancy.

SEC. 3. All officers hereafter appointed by the governor and council, excepting judicial and military officers, shall hold their offices for the term of five years, and shall be commissioned accordingly.

SEC. 4. No person chosen or appointed to any public office under any law of this State, shall exercise such office or shall perform any act therein, until he shall have taken the oath of office therefor.

SEC. 5. If any person is conscientiously scrupulous of swearing, the word *affirm* may be substituted for "*swear*" in the form of the oath, and the words, *This you do under the pains and penalties of perjury*, instead of "*So help you God.*" Such affirmation shall, for all purposes, be and constitute an oath.

SEC. 6. No other ceremony shall be deemed necessary in swearing than holding up the right hand.

SEC. 7. Official oaths may be administered as follows: to the clerk of any court, by any two justices thereof, or by any two justices of the peace, one of whom shall be of the quorum; to all military officers above the rank of field officers, and to all other officers appointed by the governor and council, by any two members of the council, or by any member of the council with a justice of the peace, or by any two justices of the peace, one of whom shall be of the quorum; and to all other officers by any justice of the peace within his county. (*Sec. 7 of chap. 15 R. S., and laws of 1848, chap. 624.*)

SEC. 8. Every justice of the peace shall keep a record of every such oath by him administered in a book to be kept for that purpose, and shall make return to the office of the secretary of state of every oath by him administered to any officer appointed by the governor and council, within six months after such oath is administered.

SEC. 9. All officers appointed by the governor and council, or chosen by the legislature, may be removed by the governor with the consent of the council, upon the address of both houses of the legislature.

CHAPTER 16.

OF FILLING VACANCIES.

IDENTICAL WITH Laws of 1844, chap. 90.

SECTION 1. The governor and council, in anticipation of any vacancy or vacancies in any of the offices in this State, which the said governor and council have the constitutional power to fill, may anticipate and fill such vacancy or vacancies: *provided, however*, that no such vacancy or vacancies, which are to happen after the lawful time for which the said governor and council were elected, shall be so filled; nor shall any such vacancy or vacancies be so filled more than ninety days in anticipation thereof.

TITLE IV. OF THE CIVIL DIVISIONS OF THE STATE.

- CHAPTER 17. Of the several counties of the State.
CHAPTER 18. Of the several council districts.
CHAPTER 19. Of the several senatorial districts.

CHAPTER 17.

OF THE SEVERAL COUNTIES OF THE STATE.

COMPILED FROM

Chapter 16 of the Revised Statutes.
Laws of 1852, chap. 1290.

SECTION

1. Number and names of counties.
2. Boundaries of Rockingham.
3. " " Strafford.
4. " " Hillsborough.
5. " " Cheshire.
6. " " Sullivan.
7. " " Grafton.
8. " " Merrimack.
9. " " Belknap.

SECTION

10. Boundaries of Carroll.
11. " " Coös.
12. Grafton county, division into judicial districts.
13. Eastern judicial district.
14. Western judicial district.
15. Actions, how prosecuted therein.
16. Officers, their powers and duties the same.

SECTION 1. The State is divided into ten counties, by the names of Rockingham, Strafford, Hillsborough, Cheshire, Sullivan, Grafton, Merrimack, Belknap, Carroll and Coös, and all towns, places, lands and waters within their bounds, respectively, shall be parts of the respective counties aforesaid.

SEC. 2. The county of Rockingham is bounded thus: beginning at the mouth of Piscataqua river and running up the same to the easterly corner of New Market, including the river; thence northwesterly by the easterly and northerly lines of New Market, Epping, Nottingham and Northwood to the easterly line of Pittsfield; thence southwesterly by the northerly and westerly lines of Northwood, Deerfield, Candia, Chester and Londonderry to the northerly line of Hudson; thence by the northerly and easterly lines of Hudson to the northwest corner of Pelham; thence by the northerly line of Pelham to the state line; thence by the state line to the sea; thence by the sea to the bound first mentioned, includ-

ing all that part of the Isles of Shoals which belongs to this State.

SEC. 3. The county of Strafford is bounded thus: beginning at the northerly corner of the town of Northwood; thence by the westerly lines of the towns of Strafford and New Durham to the northerly corner of New Durham; thence by the northerly lines of New Durham, Middleton and Milton to the state line; thence down said line to the county of Rockingham; thence by the northerly line of the county of Rockingham to the bound first mentioned.

SEC. 4. The county of Hillsborough is bounded thus: beginning at the bound between the towns of Pelham and Salem on the state line; thence westerly by the state line to the southeast corner of Rindge; thence by the easterly lines of Rindge, Jaffrey, Dublin, Nelson, Stoddard and Washington to the northwest corner of Hillsborough; thence by the northerly and easterly lines of said Hillsborough to the southwest corner of Henniker; thence by the southerly lines of Henniker and Hopkinton to the northwest corner of Dunbarton; thence by the westerly and southerly lines of Dunbarton and Hooksett to the line of the county of Rockingham; thence by said line to the bound first mentioned.

SEC. 5. The county of Cheshire is bounded thus: beginning at the southeast corner of Rindge; thence westerly by the state line to the west bank of Connecticut river; thence up the same bank to the northwest corner of Walpole; thence by the northerly lines of Walpole, Alstead, Marlow and Stoddard to the line of the county of Hillsborough; thence by said line to the bound first mentioned.

SEC. 6. The county of Sullivan is bounded thus: beginning at the northwest corner of Plainfield on the west bank of Connecticut river; thence easterly by the northerly lines of Plainfield, Grantham and Springfield to the northeast corner of Springfield; thence southerly by the easterly lines of Springfield, Sunapee, Goshen and Washington to the county of Cheshire; thence westerly by the county of Cheshire to the northwest corner thereof on the west bank of Connecticut river; thence northerly up said bank to the bound first mentioned.

SEC. 7. The county of Grafton is bounded thus: beginning at the west bank of Connecticut river at the southwesterly corner of Dalton; thence on the westerly and southerly lines of Dalton, Whitefield, Carroll and Nash and Sawyer's Location to the southeasterly corner thereof; thence southerly on a straight line across the unlocated lands to the line of the county of Carroll at the northwesterly corner of Albany; thence by the westerly line of Albany, the northerly and westerly lines of Sandwich, and the easterly and southerly lines of Holderness to the southwest corner of Holderness at the Pemigewasset or Merrimack river; thence down said river to the north line of Franklin; thence westerly on the northerly lines of Franklin, Andover, Wilmot, Springfield, Gran-

tham and Plainfield to the southwest corner of Lebanon on the west bank of Connecticut river; thence northerly on said bank to the bound first mentioned.

SEC. 8. The county of Merrimack is bounded thus: beginning at the northeast corner of Franklin; thence southerly and easterly by the easterly line of Franklin and the southerly line of Sanbornton, Gilmanton and Barnstead to the county of Rockingham; thence southwesterly by the county of Rockingham to the county of Hillsborough; thence westerly and northerly by the county of Hillsborough to the northwest corner of the town of Hillsborough; thence northerly by the easterly line of the county of Sullivan to the county of Grafton; thence southerly and easterly by the county of Grafton to the bound first mentioned.

SEC. 9. The county of Belknap is bounded thus: beginning at the northeasterly corner of Pittsfield; thence by the northerly line of the county of Merrimack to the county of Grafton; thence by the easterly line of the county of Grafton to the northerly corner of Centre Harbor; thence by the northerly line of Centre Harbor and Meredith to the easterly termination of the line separating the towns of Meredith and Moultonborough; thence easterly to the southerly point of Long island in Winnipissiogee lake; thence easterly to the southerly part of Parker's island; thence easterly to the westerly termination of the line separating the towns of Wolfborough and Alton; thence on the northerly line of Alton to the northerly corner of New Durham; thence by the county of Strafford to the bound first mentioned.

SEC. 10. The county of Carroll is bounded thus: beginning at the northerly corner of New Durham; thence by the northerly line of the county of Belknap to the county of Grafton; thence by the easterly line of the county of Grafton to the northwesterly corner of Albany; thence by the northerly line of Albany and the westerly and northerly lines of Conway and Chatham to the state line; thence down said line to the line of the county of Strafford; thence by the northerly line of the county of Strafford to the bound first mentioned.

[The towns of Bartlett and Jackson, and Hart's Location, in the county of Coös, be and they are hereby disannexed from said county and annexed to the county of Carroll. *Laws of 1852, chap. 1290.*]

SEC. 11. The county of Coös contains all the lands and waters within the limits of this State which lie northerly of the counties of Grafton and Carroll. (*See preceding section.*)

SEC. 12. The county of Grafton is divided into two judicial districts, to be known by the names of the eastern and western judicial districts of the county of Grafton.

SEC. 13. The towns of Alexandria, Bridgewater, Bristol, Campton, Danbury, Dorchester, Ellsworth, Grafton, Groton, Hebron, Hill, Holderness, Lincoln, Orange, Plymouth, Rumney,

Thornton, Waterville, Wentworth, and Woodstock constitute the eastern judicial district.

SEC. 14. The towns of Bath, Benton, Bethlehem, Canaan, Enfield, Franconia, Hanover, Haverhill, Landaff, Lebanon, Lisbon, Littleton, Lyman, Lyme, Orford, Piermont, Warren and the place called Dame's Gore constitute the western judicial district.

SEC. 15. All actions, petitions, appeals and prosecutions in all civil cases shall be commenced, entered and prosecuted in the court of common pleas for said districts, in the same manner they would be if each of said districts was a distinct county.

SEC. 16. Such division shall not affect the rights or duties of any officer or person, except so far as is expressly provided in this chapter.

CHAPTER 18.

IDENTICAL WITH

Chapter 17 of the Revised Statutes.

OF THE SEVERAL COUNCIL DISTRICTS.

SECTION	SECTION
1. Number and powers of council districts.	4. Boundaries of District No. 3.
2. Boundaries of District No. 1.	5. " " No. 4.
3. " " No. 2.	6. " " No. 5.

SECTION 1. The State is divided into five council districts, each of which may choose one councillor annually.

SEC. 2. *Council district number one* contains the county of Rockingham and the towns of Allenstown, Bow, Canterbury, Chichester, Concord, Epsom, Loudon, Northfield, Pembroke and Pittsfield in the county of Merrimack.

SEC. 3. *Council district number two* contains the counties of Strafford, Belknap and Carroll.

SEC. 4. *Council district number three* contains the county of Hillsborough and the towns of Andover, Boscawen, Bradford, Dunbarton, Franklin, Henniker, Hooksett, Hopkinton, Newbury, New London, Salisbury, Sutton, Warner and Wilmot in the county of Merrimack.

SEC. 5. *Council district number four* contains the counties of Cheshire and Sullivan.

SEC. 6. *Council district number five* contains the counties of Grafton and Coös.

CHAPTER 19.

OF THE SENATORIAL DISTRICTS.

IDENTICAL WITH
Laws of 1852, chap. 1283.

SECTION	SECTION
1. Number and powers of senatorial districts.	7. Boundaries of District No. 6.
2. Boundaries of District No. 1.	8. " " No. 7.
3. " " No. 2.	9. " " No. 8.
4. " " No. 3.	10. " " No. 9.
5. " " No. 4.	11. " " No. 10.
6. " " No. 5.	12. " " No. 11.
	13. " " No. 12.

SECTION 1. The State shall be and hereby is divided into twelve senatorial districts, each of which may elect one senator to the legislature, annually, pursuant to the constitution.

SEC. 2. Senatorial district number one shall contain Durham, Gosport, Greenland, Hampton, Hampton Falls, Lee, Madbury, Newington, New Castle, North Hampton, Portsmouth, Rye, Seabrook and Stratham.

SEC. 3. Senatorial district number two shall contain Allentown, Atkinson, Auburn, Brentwood, Candia, Chester, Deerfield, Danville, East Kingston, Epping, Epsom, Exeter, Hampstead, Hooksett, Kensington, Kingston, New Market, Newton, Nottingham, Plaistow, Poplin, Raymond, Salem, Sandown, South Hampton and South New Market.

SEC. 4. Senatorial district number three shall contain Bedford, Derry, Dunbarton, Goffstown, Londonderry, Manchester, Merrimack, Weare and Windham.

SEC. 5. Senatorial district number four shall contain Andover, Boscawen, Bow, Canterbury, Concord, Franklin, Gilmanton, Hopkinton, Loudon, Northfield, Pembroke, Salisbury and Sanbornton.

SEC. 6. Senatorial district number five shall contain Alton, Barnstead, Barrington, Brookfield, Chichester, Dover, Farmington, Middleton, New Durham, Northwood, Pittsfield, Rochester, Rollinsford, Somersworth, Strafford, Tuftonborough and Wolfborough.

SEC. 7. Senatorial district number six shall contain Albany, Bartlett, Centre Harbor, Chatham, Conway, Eaton, Effingham, Freedom, Gilford, Hart's Location, Jackson, Madison, Meredith, Milton, Moultonborough, New Hampton, Ossipee, Sandwich, Tamworth and Wakefield.

SEC. 8. Senatorial district number seven shall contain Amherst, Bennington, Deering, Francestown, Greenfield, Hollis, Hud-

son, Litchfield, Lyndeborough, Milford, Mont Vernon, Nashua, Nashville, New Boston and Pelham.

SEC. 9. Senatorial district number eight shall contain Alstead, Antrim, Bradford, Chesterfield, Gilsum, Hancock, Henniker, Hillsborough, Marlow, Nelson, Stoddard, Sullivan, Surry, Walpole, Warner, Washington, Westmoreland and Windsor.

SEC. 10. Senatorial district number nine shall contain Brookline, Dublin, Fitzwilliam, Hinsdale, Jaffrey, Keene, Marlborough, Mason, New Ipswich, Peterborough, Richmond, Rindge, Roxbury, Sharon, Swanzey, Temple, Troy, Wilton and Winchester.

SEC. 11. Senatorial district number ten shall contain Acworth, Charlestown, Claremont, Cornish, Croydon, Goshen, Grantham, Langdon, Lempster, Newbury, New London, Newport, Plainfield, Springfield, Sunapee, Sutton, Unity and Wilmot.

SEC. 12. Senatorial district number eleven shall contain Alexandria, Bridgewater, Bristol, Campton, Canaan, Danbury, Dorchester, Ellsworth, Enfield, Grafton, Groton, Hanover, Hebron, Hill, Holderness, Lebanon, Lyme, Orange, Orford, Plymouth, Rumney, Warren and Wentworth.

SEC. 13. Senatorial district number twelve shall contain the county of Coös, and all other towns in the county of Grafton not included in the other districts.

TITLE V.

OF COUNTIES AND COUNTY OFFICERS.

- CHAPTER 20. Of the powers and obligations of counties.
CHAPTER 21. Of the election of county officers.
CHAPTER 22. Of the county treasurer.
CHAPTER 23. Of the register of deeds.
CHAPTER 24. Of the county revenue.
-

CHAPTER 20.

OF THE POWERS AND OBLIGATIONS OF COUNTIES.

IDENTICAL WITH
Chapter 19 of the Revised Statutes.

SECTION

1. Powers of counties.
2. Court of common pleas to have charge of county property.

SECTION

3. Suits against counties, how brought.
4. Execution against a county, how satisfied.

SECTION 1. Each county in this State is a body politic and corporate for the purpose of suing and being sued; purchasing, taking and holding real and personal estate for county purposes; for conveying the same; for making all necessary contracts, and doing all other necessary acts in relation to the property and concerns of the county.

SEC. 2. The court of common pleas for each county shall have the custody of all property belonging to such county, and shall see that the same is kept in good condition, and when expedient may authorize the county treasurer to sell and convey any part thereof for the use of the county.

SEC. 3. Any suit against a county may be brought in the same or an adjoining county, and the court of common pleas may settle or make any arrangements respecting the same in behalf of the county, or may appoint an agent or agents to defend the same.

SEC. 4. Payment of any execution against a county shall first be demanded of the treasurer, and if not satisfied within sixty days after such demand, it may then be levied upon the property of the county or of any inhabitant thereof, who shall have his action therefor against the county, and may recover any sum so paid, with exemplary damages and double costs.

CHAPTER 21.

OF THE ELECTION OF COUNTY OFFICERS.

COMPILED FROM

Chapter 20 of the Revised Statutes.
Laws of 1845, chap. 240.

SECTION

1. Election, when to be holden.
2. Who may be chosen to or hold office.
3. Return of votes, form of.
4. Return of votes, how made.
5. Return of votes, how declared.
6. Where candidates have equal number.

SECTION]

7. Penalty for neglect to make return.
8. Who shall prosecute.
9. Oath of office to be taken.
10. Removals, how and when made.
11. Vacancy, how filled.

SECTION 1. There shall be chosen on the second Tuesday of March annually, by ballot, by the inhabitants of the several towns and places in each county, qualified to vote for senators, a register of deeds, a treasurer and three road commissioners, each of whom shall hold his office until some other person is chosen and qualified in his stead.

SEC. 2. No person is eligible to the office of register, treasurer, road commissioner or clerk of any court, unless he is a resident of the county for which he is chosen. No person shall hold any two of said offices at the same time, and the acceptance of any office shall be a resignation of any office incompatible with it.

SEC. 3. The return of votes given in any town or place for any of said officers shall be made out, signed, certified and sealed by the clerk thereof, in all respects as is provided for the return of votes for senator.

SEC. 4. The clerks of the several towns in this State shall direct the returns of votes for county officers to the justices of the court of common pleas for the county, with a superscription expressing the purport thereof, and shall transmit the same to said justices on or before the first day of the sitting of said court, at the next stated term after the second Tuesday of March in each year. (*Laws of 1845, chap. 240.*)

SEC. 5. The justices aforesaid shall immediately proceed to examine said returns of votes, and the person who has received the highest number of votes for any office, shall be declared to be elected.

SEC. 6. If the candidates for any of said offices, having the highest number of votes, shall have an equal number, said justices shall appoint the requisite number from said candidates, who shall be declared to be duly elected.

SEC. 7. If the clerk of any town shall neglect to make any of the returns of votes aforesaid according to law, he shall for each

offence be punished by fine not exceeding fifty dollars, nor less than twenty dollars, for the use of the county.

SEC. 8. The clerk of each of said courts shall certify to the attorney general, or to the solicitor of the county, on the day succeeding the return day, every such default, and a prosecution shall be commenced therefor by said officers either by indictment or information, within one year from said return day, but not after.

SEC. 9. No such officer shall enter upon the discharge of any duty of his office until he shall have taken and subscribed the oath of office; and said oath shall be filed in the office of the clerk of the court of common pleas.

SEC. 10. Any such officer may be removed from office by the justices of the court of common pleas of the county for official misconduct, and the office declared vacant. If any person chosen or appointed, to either of said offices declines to accept, removes from the county, resigns, dies, or becomes insane, or when there is manifest hazard to the public interest, said justices shall declare the office vacant.

SEC. 11. In any case of vacancy, said justices shall appoint a commissioner who shall be sworn and shall perform all the duties, be subject to all the requirements and liabilities, and be entitled to all the privileges and emoluments of such vacant office.

CHAPTER 22.

OF THE COUNTY TREASURER.

IDENTICAL WITH

Chapter 21 of the Revised Statutes.

SECTION

1. Treasurer to give bonds.
2. Suits on bond regulated.
3. Treasurer to collect and disburse.
4. Money, how drawn by superior court.

SECTION

5. Money, how drawn by C. C. P.
6. Treasurer's account, how settled.
7. Statement to be made annually.
8. Statement filed with secretary.

SECTION 1. Before the county treasurer shall perform any duty of his office, he shall give bond to the county for the faithful discharge of his duties, in such sum, not less than two thousand dollars nor more than fifty thousand dollars, with such sureties as shall be approved by the court of common pleas, to be lodged with the clerk of said court and kept for the use of the county.

SEC. 2. It shall be put in suit by order of said court, which suit shall be brought in an adjacent county, and execution shall issue on any judgment obtained thereon for such amount not exceeding the penalty of the bond, as said treasurer shall be in arrear to the county.

SEC. 3. The treasurer shall collect and receive all moneys due to the county, and disburse the same according to law, and shall keep a fair and correct account thereof in suitable books, to be procured at the expense of the county.

SEC. 4. The order of the superior court shall be a sufficient voucher for the payment of the attendance of officers at any time, and all the necessary expenses of said court.

SEC. 5. The order of the court of common pleas shall be a sufficient voucher for the payment of the fees of grand and petit jurors, witnesses for the state, officers, criminal prosecutions, all incidental expenses of the court, expenses of laying out, building and repairing highways, pauper accounts, appropriations by the county convention and all other sums for which the county may be made chargeable.

SEC. 6. The treasurer shall render to the court of common pleas annually, and oftener if required, a true and minute statement of all the sums by him received and paid since the last statement made; and said court shall audit, adjust and settle the same.

SEC. 7. The treasurer shall make out and deliver to the clerk of said court, on or before the first day of June annually, a statement of his account as treasurer for the year commencing with the last annual settlement, in which shall be specified the sums and objects of all receipts and payments.

SEC. 8. Said clerk shall deliver such statement or cause the same to be delivered to the secretary of state prior to the second Wednesday of June annually, and shall publish the same in such newspaper as said court shall direct.

CHAPTER 23.

OF REGISTERS OF DEEDS.

IDENTICAL WITH

Chapter 22 of the Revised Statutes.

SECTION

1. Bond to be given, form, &c.
2. Bond, how put in suit.
3. Register to keep his office open.
4. Register to keep papers safely.
5. Register to record, certify, &c.

SECTION

6. Register to keep indexes.
7. Register to record time when received, names of parties, &c.
8. Neglect of register, penalty.

SECTION 1. Before any register shall perform any duty of his office, he shall give bond for the faithful performance of his duties, in such sum, not less than two thousand dollars nor more than fifty thousand dollars, and with such sureties, as shall be approved

by the court of common pleas. Such bond shall be given to the county, shall be lodged with the clerk of said court, and shall be for the benefit of any person who may be injured by the neglect or misconduct of said register.

SEC. 2. Such bond shall be put in suit by order of said court whenever any person may be aggrieved, and execution shall issue from time to time for all sums for which judgment may be recovered against such register, and for which a full satisfaction shall not have been otherwise obtained.

SEC. 3. The register shall keep his office open daily, (Sundays excepted,) in the place, if any there be, provided therefor by the county.

SEC. 4. He shall keep all books, records, files and papers carefully, and shall permit no paper there deposited to be taken from his office before it shall be recorded.

SEC. 5. He shall receive, file and record, for the legal fees, all deeds and instruments brought for that purpose, and shall examine the records and give certificates or copies thereof, when required.

SEC. 6. He shall keep a general index, containing two lists, arranged alphabetically; one consisting of all the names of grantors to grantees; the other the names of all grantees from grantors; in which he shall enter, at the time of recording any deed, the names of the grantors and grantees, as aforesaid.

SEC. 7. Immediately upon the receipt of any deed for record, he shall enter in separate columns in a book kept by him and open to inspection, the time when the deed is received, the name of the grantor, the name of the grantee and the name of the town in which the land conveyed is situate.

SEC. 8. If the register shall neglect any duty imposed by this chapter, he shall forfeit twenty dollars to be recovered by an action of debt in the name of the treasurer of the county, for the use of the county, and shall also be liable to an action on the bond as aforesaid.

CHAPTER 24.

OF THE COUNTY REVENUE.

COMPILED FROM

Chapter 23 of the Revised Statutes.

" 34, Laws of 1843.

SECTION

1. Court of common pleas to recommend taxes.
2. Taxes, how to be granted.
3. Clerk of court of common pleas to record doings of convention.

SECTION

4. County treasurer to issue warrant for tax.
5. Execution against county, how paid.
6. Treasurer authorized to borrow money.

SECTION 1. Each county treasurer shall, in December annually, make and deliver to the court of common pleas, at the next stated term thereafter, a particular and certified statement of the condition of the treasury, and said court shall determine how much money, in their opinion, is necessary to be raised in and for the county, for the year ensuing, stating in general the purposes for which the same may be needed, and the amount for each object, and lodge such determination and statement with the clerk of said court, who shall transmit the same to the secretary of state, prior to the second Wednesday of June next following.

SEC. 2. The representatives of the several towns comprising each county, on the second Wednesday of the session in June, or on some subsequent day of the same week, shall meet and form themselves into a convention, of the time and place of which notice shall be given by the speaker. The convention may choose a chairman, a clerk who shall be sworn by the chairman or some justice, and who shall record all the proceedings thereof, and shall deliver such record, or cause the same to be delivered, to the clerk of the court of common pleas for said county, within sixty days thereafter, and said convention may grant and appropriate such taxes for the use of the county as may be necessary, and all taxes so voted by the majority of the representatives present shall be valid.

SEC. 3. The clerk of the court of common pleas for each county shall record in the record book of conventions for the county, (which shall be kept in his office,) the doings of such convention, and he shall certify to the treasurer of the county all taxes granted by the same.

SEC. 4. The treasurer shall issue his warrant to the selectmen of the several towns in his county liable to pay state taxes, requiring them to assess, collect and pay in to the treasurer of said county, within such time as shall be therein directed, their just proportion of all taxes granted and certified as aforesaid, which shall be according to their proportion of public taxes for the time being, and may enforce the collection and payment thereof, in the same manner as the treasurer of the state may enforce the collection and payment of outstanding state taxes.

SEC. 5. If any execution shall issue against any county, the treasurer, upon demand made, shall pay the same out of any money in the treasury; and if this is insufficient, he may issue his warrant to the selectmen of the several towns in the county, in the manner prescribed in the preceding section, requiring them to collect and pay into the treasury, within forty days, a sum sufficient to satisfy said execution, and may enforce payment thereof in manner therein provided.

SEC. 6. Whenever the money in the treasury of any county shall be insufficient to meet the demands upon the same, the treasurer, upon an order of the court of common pleas, may borrow such sum as they shall deem necessary for the purpose, and may bind the county for the re-payment of the same. (*Laws of 1843, chap. 34, sec. 1.*)

TITLE VI.

OF ELECTIONS OTHER THAN OF COUNTY AND TOWN OFFICERS.

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- CHAPTER 25. Of the rights and qualifications of voters.
 CHAPTER 26. Of the manner of conducting elections.
 CHAPTER 27. Of the election of governor, councillors and senators.
 CHAPTER 28. Of the election of representatives in congress.
 CHAPTER 29. Of the election of electors of president and vice-president.
 CHAPTER 30. Of the election of representatives to the general court.
 CHAPTER 31. General provisions concerning elections.
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CHAPTER 25.

OF THE RIGHTS AND QUALIFICATIONS OF VOTERS.

COMPILED FROM
 Chapter 24 of the Revised Statutes.
 " 492, Laws of 1847.

SECTION

1. Who are legal voters.
2. Who are deemed paupers.
3. Abatement of taxes not to deprive of right to vote upon tender of payment thereof.
4. Assistance from town—right to vote upon tender of payment thereof.

SECTION

5. Aliens are not voters.
6. Length of residence required.
7. Residence not lost by a temporary absence.
8. Person electing place of residence, when.
9. Students gain no residence.

SECTION 1. Every male inhabitant of each town, being a native or naturalized citizen of the United States, of the age of twenty-one years and upwards, excepting paupers and persons excused from paying taxes at their own request, shall have a right at any meeting to vote in the town in which he dwells and has his home.

SEC. 2. No person shall be considered a pauper within the meaning of the preceding section, unless he has been assisted as such within ninety days prior to the meeting in which he claims the right to vote.

SEC. 3. No legal voter in any town or place shall be deprived of his right to vote at any town meeting by reason of requesting or having requested that his taxes might be abated or remitted, or by reason of the abatement or remission of his taxes, *provided* he shall, before he offers to vote, tender the payment of all taxes assessed against him during the year prior to his offer to vote, to the moderator, collector of taxes, or one of the selectmen, and at the time he offers to vote, present the evidence of such tender. (*Laws of 1847, chap. 492, sec. 2.*)

SEC. 4. No person shall be deprived of the right to vote at any town meeting by reason of having received assistance from the town for himself or his family, *provided* he shall tender payment as aforesaid of all reasonable expenses which such town has incurred, within ninety days, by reason of such assistance; but such person upon making such tender shall have his name placed upon the check list, and his vote shall be received. (*Laws of 1847, chap. 492, sec. 3.*)

SEC. 5. No alien shall be entitled to vote at any town meeting. (*Sec. 3, chap. 24, R. S.*)

SEC. 6. No person shall be considered as dwelling or having his home in any town for the purpose of voting, or being voted for at any meeting therein, unless he shall have resided within this State six months, and within such town three months, next preceding the day of said meeting. (*Sec. 4, chap. 24, R. S.*)

SEC. 7. When such a residence is acquired by any person in any town, it shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his home. (*Sec. 5, chap. 24, R. S.*)

SEC. 8. Any person who shall exercise the privilege of voting at any election in any town or place within this or any other State, shall be deemed by that act to have elected such town or place to be his legal residence for the purpose of voting, and shall thereafter be disqualified to vote in any other town or place in this State, until he shall have gained a new residence as is herein before provided. (*Laws of 1849, chap. 850.*)

SEC. 9. No person attending at any college, academy or other literary institution in any town for the purpose of obtaining an education, shall be entitled to vote therein, nor lose his right at his former residence. This shall not apply to any person who had a previous legal residence in any such town, or who has removed and taken up his permanent residence therein. (*R. S., chap. 24, sec. 6.*)

CHAPTER 26.

OF THE MANNER OF CONDUCTING ELECTIONS.

COMPILED FROM

Chapter 25 of the Revised Statutes.

" 492, Laws of 1847.

SECTION

1. List of voters to be posted.
2. Sessions for correcting such lists to be holden.
3. List, how to be corrected.
4. List open to examination.
5. Voters on said list may vote, if accidentally omitted.
6. List to be present at meeting.
7. Ballot boxes to be provided.
8. What are deemed ballots.
9. Mode of balloting.
10. What officers to be voted for on one ticket.
11. No person need vote for every officer; when deemed a blank.
12. Selectmen and town clerk to assist in counting votes.
13. Majority, how determined.

SECTION

14. Majority, how determined.
15. Votes, how to be counted, declared and recorded.
16. No ballot to be received after the votes declared.
17. Statutes to be present at the meeting.
18. Check list and list of polls to be filed with town clerk.
19. Penalty for treating at elections.
20. Penalty for attempt to influence voters.
21. Penalty for voting illegally.
22. Penalty for neglect or fraud of selectmen.
23. Penalty for fraud of moderator or selectmen.
24. Penalty for any other neglect or fraud.

SECTION 1. The selectmen shall lodge with the town clerk, and shall also cause to be posted up in one or more public places in the town, an alphabetical list of all the legal voters therein, fifteen days at least prior to any meeting for the choice of state or county officers, representatives in congress or electors of president and vice president.

SEC. 2. The selectmen shall be in session at some convenient place for so long a time as shall be necessary, within three days next preceding any such meeting, for the purpose of correcting said list, and one session shall be for two hours at least on the day and before the opening of said meeting. Notice of the time and places of holding said sessions shall be given upon said lists at the time of posting up the same.

SEC. 3. The selectmen shall hear all applications for the insertion of the name of any person upon said list, or the erasure of any name therefrom, and may examine the party or any witnesses thereto upon oath, which may be administered by any member of the board. They shall insert the name of every legal voter omitted, and erase the name of every person not a legal voter.

SEC. 4. The list, as corrected by the selectmen, shall at all

times, before the opening of any meeting, be open for the examination of every citizen of the town.

SEC. 5. No person shall be allowed to vote at any meeting aforesaid, unless his name is inserted upon said list before the opening of such meeting, and the vote of no person whose name is then upon said list, shall be rejected; *provided, however*, that this section shall not be so construed as to prevent any person from voting at any election, whose residence has with the knowledge of the selectmen, been, for and during the year next preceding the said election, in such town, but whose name has been accidentally omitted from said list.

SEC. 6. The selectmen shall be present at the opening of such meeting, and shall have then and there present the list of legal voters corrected as aforesaid.

SEC. 7. A suitable box or boxes shall be provided by the selectmen at the expense of the town, in which to receive the ballots of the voters.

SEC. 8. Each ballot shall contain the name of every person voted for, and may be either written or printed. Blank pieces of paper shall not be counted as ballots, votes or tickets.

SEC. 9. Each voter shall deliver his ballot to the moderator in open meeting, and the moderator, on receiving the ballot, shall direct the town clerk to check the name of the voter on said list, and shall, without inspecting the name of any person voted for, examine said ballot so far only as to determine whether the same contains more than one ticket; if it do not, he shall place the ballot in the balloting box; but if it do, he shall make it manifest to the meeting, and reject the same.

SEC. 10. In balloting for state and county officers, representatives to congress, or electors of president and vice-president, the moderator shall call for the ballots for so many of said officers as it may be necessary to vote for at such meeting, to be given in on the same ticket, as a majority of the voters present may request or designate, with the respective offices designated against the name of each person voted for.

SEC. 11. If several officers are to be voted for upon one ticket, no person shall be obliged to vote for each of said officers. And when more than one description of officers are voted for on the same ticket, any ticket which does not contain at least one vote for each description of officers, shall be regarded as a blank as to the description of officers omitted.

SEC. 12. The selectmen and town clerk shall assist in sorting and counting said votes, but no other person shall in any manner interfere therewith.

SEC. 13. In determining the result of any election, the whole number of persons voting for any officer shall first be ascertained by counting the whole number of separate tickets given in, and no person shall be declared to be elected to any office who shall not have received a majority of the whole number of tickets given

in for such office, except in cases otherwise specially provided for.

SEC. 14. If a number of candidates greater than the requisite number shall severally receive a majority, a number equal to the requisite number having the greatest excess over such majority shall be declared to be elected. But if the number to be elected cannot be completed by reason of any two or more candidates having received an equal majority, one or more being greater than the requisite number, the candidates having such an equal majority shall be declared not to be elected.

SEC. 15. The moderator shall in said meeting, in presence of the selectmen and town clerk, sort and count the said votes and make a public declaration of the whole number of the tickets given in, with the name of every person voted for, and the number of votes for each person, and the town clerk shall make a fair record thereof at large in the books of the town.

SEC. 16. No ballot shall be received and counted after the state of the votes shall have been declared as aforesaid.

SEC. 17. The town clerk shall have present at the polls, at the opening thereof, all the statute laws of this State in force relating to the subject of elections.

SEC. 18. Upon the back of the list of voters used at the annual meeting, the selectmen shall enter the names of all the ratable polls in the town not included in said list, and shall file the same with the town clerk within one week after the town meeting.

SEC. 19. If any person shall directly or indirectly give spirituous liquor to any voter at any time with a view to influence any election, or as a treat for his vote, or for the honors bestowed on any candidate at such election, he shall be punished by fine not exceeding twenty dollars for each offence.

SEC. 20. If any person shall directly or indirectly hire or procure or attempt to hire or procure, by payment, promises, threats, or intimidations, any other person to stay away from any town meeting, or to avoid voting at any town meeting, or to vote for or against any particular ticket or candidate for office, or to procure him to ask the abatement of his taxes, or to be excused from paying taxes, in order to prevent him from voting at any election, such person shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days. (*Laws of 1847, chap. 492, sec. 1.*)

SEC. 21. If any person at any meeting for the choice of officers shall give in more than one vote for any officer voted for at such meeting; or if any person under the age of twenty-one years, or any alien not naturalized, or any person who is not a legal voter, shall give in any vote for any officer at such meeting; or if any person being under examination as to his qualifications as a voter before the board of selectmen, shall give any false name or answer; he shall be punished by fine not exceeding thirty dollars for each offence, or may be imprisoned in the common jail not exceeding three months.

Sec. 22. If any selectman at any session holden for the correction of the list of voters, on receiving satisfactory evidence that any person whose name is on said list is not a legal voter, shall neglect or refuse to erase such name from such list; or shall neglect or refuse to insert on said list the name of any person who is a legal voter, having satisfactory evidence thereof; or shall neglect or refuse to hear or examine any evidence offered for such purpose in either of the cases aforesaid; or shall at any time insert on said list the name of any person not a legal voter, knowing such to be the case; or shall knowingly erase therefrom or omit to insert the name of any legal voter; he shall be punished by fine not exceeding fifty dollars for each offence.

Sec. 23. If any moderator or selectman at any such meeting shall fraudulently receive and count any illegal vote, or shall fraudulently omit to receive and count any legal vote; or shall fraudulently embezzle any vote from the number of legal votes cast, or add any vote thereto; or shall receive or count any vote given at such meeting by proxy and without the personal delivery of such vote by the person entitled to give the same; he shall for each offence be punished by fine not exceeding fifty dollars.

Sec. 24. If any person shall be guilty of any offence against any provision of this chapter, the penalty for which is not herein specified, he shall be punished by fine not exceeding thirty dollars for each offence.

CHAPTER 27.

OF THE ELECTION OF GOVERNOR, COUNCILLORS AND SENATORS.

IDENTICAL WITH

Chapter 26 of the Revised Statutes.

SECTION

1. Meeting, when to be holden.
2. Return of votes, how made.
3. Return, when to be made.

SECTION

4. Receipt to be given therefor.
5. Penalty for neglect to make return.

SECTION 1. The meetings of the several towns for the election of governor, councillors and senators shall be holden on the second Tuesday of March annually, and at no other time.

SEC. 2. The town clerk shall make out a fair and exact copy of the record of all votes given in at any such meeting for governor, for councillor and for senator, upon distinct and separate pieces of paper, shall certify upon each copy that the same is a true copy of said record, and shall seal up said copies separately and direct

the same to the secretary of state, with a superscription upon each expressing the purport thereof.

SEC. 3. He shall cause such attested copy to be delivered to the sheriff of the county in which said town lies, thirty days at least before the first Wednesday of June, or to the secretary of state twenty days at least before the said first Wednesday of June, and the sheriff or his deputy shall deliver all such certificates by him received, into the secretary's office twenty days at least before the first Wednesday of June.

SEC. 4. The sheriff or secretary upon the receipt of any such copy, shall give a receipt therefor, if requested.

SEC. 5. If any town clerk or sheriff shall neglect to make any return of votes in the manner aforesaid, he shall be punished by fine not exceeding one hundred dollars, nor less than twenty dollars.

CHAPTER 28.

OF THE ELECTION OF REPRESENTATIVES IN CONGRESS.

COMPILED FROM

Chapter 27 of the Revised Statutes.

" 342, Laws of 1846.

" 700, " " 1848.

" 1284, " " 1852.

SECTION

1. State divided into districts.
2. Of what counties each district shall consist.
3. Meeting, when holden.
4. Meetings, how warned and governed; return of votes.
5. Plurality to elect.

SECTION

6. When new election to be ordered.
7. Return of votes.
8. Votes to be laid before governor, &c.
9. When new election ordered.
10. Vacancy, how filled.
11. Penalty for neglect to make return.

SECTION 1. That this State be and hereby is divided into three districts for the purpose of choosing representatives of this State in the Congress of the United States, and each district shall be entitled to elect one representative [being an inhabitant of the same district.*] (*Laws of 1852, chap. 1284.*)

SEC. 2. The said districts shall be formed and limited in manner following, to wit: the towns that now constitute the counties of Rockingham, Strafford, Belknap and Carroll shall constitute the first district. The towns that now constitute the counties of Merrimack and Hillsborough shall constitute the second district. The towns that now constitute the counties of Cheshire, Sullivan,

* This is a portion of the laws of 1846, chap. 342, sec. 1. It is retained in the compilation, but is omitted in the laws of 1852.

Grafton and Coös shall constitute the third district. (*Laws of 1852, chap. 1284.*)

SEC. 3. The meeting for the choice of representatives in congress shall be holden in each district on the second Tuesday of March, eighteen hundred and forty-seven, and on the second Tuesday of March in every second year thereafter. (*Laws of 1846, chap. 342, sec. 3.*)

SEC. 4. The meetings in the several towns and places in each district shall be warned and governed, and the return of votes for representatives shall be made out, signed, certified, sealed, directed, transmitted, receipted for, examined and counted, at the same time and in the same manner as is now provided for the return of votes for senators. (*Laws of 1846, chap. 342, sec. 4.*)

SEC. 5. Upon such examination and count, the person having the largest number of votes returned, in any district, shall be declared duly elected, and the governor shall forthwith transmit to the person so elected a certificate of such election, signed by himself and countersigned by the secretary, and with the seal of state affixed thereto. (*Laws of 1848, chap. 700, sec. 1.*)

SEC. 6. If two or more persons, at any election of representative to Congress, shall, in any district, receive the largest and an equal number of votes, so that no choice be made, the governor with the advice of the council, shall cause precepts to be issued to the selectmen of the several towns and places within such district for another election, requiring them to warn meetings to be held at the time specified in such precepts for the choice of a representative in such district. (*Laws of 1848, chap. 700, sec. 2.*)

SEC. 7. The votes given in at any such meeting shall be received, sorted, counted, declared, recorded and certified, and the return thereof made out, signed, certified, sealed and directed in the manner herein-before prescribed, and the clerk shall transmit the same to the sheriff of the county in which such town lies either within ten days after such meeting, or to the office of the secretary of state within fifteen days after such meeting; and every such sheriff shall transmit to the secretary's office all returns of votes by him received as aforesaid, within twenty days after said meeting. (*Laws of 1848, chap. 700, sec. 3.*)

SEC. 8. The secretary, as soon as may be, shall lay all such returns before the governor and council, and the votes shall be examined and counted, and the election of the person having the largest number of votes declared and certified, and the certificate thereof made out and transmitted in the manner herein-before directed. (*Laws of 1848, chap. 700, sec. 4.*)

SEC. 9. If upon such second balloting two or more persons shall have the largest and an equal number of votes in any district, so that no choice be made therein, then the governor, with advice of the council, shall forthwith cause new precepts to be issued as aforesaid, directing another meeting to be warned and holden to fill such vacancy; and the same proceedings shall be

again had as are herein-before provided, and so from time to time, so long as may be necessary, until some one person shall have the largest number of votes, who shall be declared elected as aforesaid. (*Laws of 1848, chap. 700, sec. 5.*)

SEC. 10. If any vacancy in the representation of the State in congress shall occur by death, resignation or otherwise, the governor, with advice of the council, shall forthwith cause precepts to be issued to the selectmen of the towns and places within the district where such vacancy may have occurred, for an election to fill such vacancy, and similar proceedings in all respects shall be had therein as are provided in the preceding sections of this chapter, and the balloting in such districts shall be continued until some one person shall have the largest number of votes given in and returned as aforesaid, who shall be declared duly elected to fill such vacancy. (*Laws of 1848, chap. 700, sec. 6.*)

SEC. 11. If any town clerk or sheriff shall neglect to make any return of votes as aforesaid, he shall be liable to the same penalty provided for neglect to make return of votes for senator. (*Laws of 1846, chap. 342, sec. 10.*)

CHAPTER 29.

OF THE ELECTION OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT.

COMPILED FROM
Chapter 28 of the Revised Statutes.
" 617, Laws of 1848.
" 701, " " 1848.

SECTION

1. Meeting, when to be holden.
2. Returns of votes, how made by clerk.
3. Returns of votes, how made by sheriff.
4. Votes, how counted and declared.
5. Proceedings, when no choice.

SECTION

6. Electors to be notified of their election.
7. Electoral board, how organised.
8. Vacancies in board, how filled.
9. Board, how to proceed in voting.
10. Penalty for neglect to return votes.

SECTION 1. The meeting for the choice of electors of president and vice-president shall be holden on the Tuesday following the first Monday in November one thousand eight hundred and forty-eight, and on the Tuesday following the first Monday in November, in every fourth year thereafter, and the governor shall seasonably issue precepts to the several towns, directing them to warn and hold meetings at the time and for the purpose aforesaid. (*Laws of 1848, chap. 617, sec. 1.*)

SEC. 2. The return of votes for electors shall be made out, signed, certified, sealed and directed in the same manner hereinbefore provided for the return of votes for senator, and the town clerk shall transmit the same to the sheriff of the county within seven days after said meeting, or to the office of the secretary of state on or before the last Wednesday but one of the same month.

SEC. 3. Each sheriff shall on or before the said Wednesday transmit to the secretary's office all returns of votes to him transmitted as aforesaid. The sheriff or secretary to whom such return of votes shall be delivered, shall, if requested, give a receipt therefor.

SEC. 4. The secretary shall on the day following the said last Wednesday but one of November, lay such returns before the senate and house of representatives in convention, to be by them examined and counted. The requisite number of persons to be chosen, who shall have the largest number of votes returned, shall be declared duly chosen electors. (*Laws of 1848, chap. 701, sec. 1.*)

SEC. 5. If the requisite number of electors shall not be chosen as aforesaid by reason of two or more persons having an equal number of votes, then the senate and house of representatives in convention shall forthwith choose by ballot so many persons, one at a time, as shall be necessary to complete the requisite number. (*Laws of 1848, chap. 701, sec. 2.*)

SEC. 6. The governor shall cause the several persons who may be chosen electors, to be notified forthwith of their election, and request their attendance at the state house in Concord, on the Tuesday next preceding the first Wednesday of December then next, at ten of the clock in the forenoon.

SEC. 7. The electors chosen as aforesaid shall meet at the state house in Concord, on said Tuesday, and by twelve o'clock at mid-day of said day, give notice to the legislature of the number of electors present, who accept said office.

SEC. 8. If the requisite number of electors are not present, or do not accept, the senate and house of representatives shall immediately meet in convention, and by joint ballot elect the number wanting to complete the board, and if any person so chosen do not accept, the convention shall immediately fill such vacancy.

SEC. 9. The electors shall give their votes for president and vice-president of the United States at Concord, on said first Wednesday of December, and shall proceed therein according to law.

SEC. 10. If any clerk or sheriff shall neglect to make return of votes in the manner aforesaid, he shall incur the same penalty as in case of neglect to return votes for senator.

CHAPTER 30.

OF THE ELECTION OF REPRESENTATIVES IN THE GENERAL COURT.

COMPILED FROM

Chapter 29 of the Revised Statutes.

" 95 Laws of 1844.

" 173, " " 1844.

" 174, " " 1844.

" 493, " " 1847.

" 508, " " 1847.

" 509, " " 1847.

" 619, " " 1848.

" 623, " " 1848.

" 721, " " 1848.

" 741, " " 1848.

" 856, " " 1849.

OF TOWNS NOT CLASSED.

SECTION

1. Meeting, when to be holden.
2. Certificate of election, form, &c.
3. Who are ratable polls.
4. Towns specially authorized, duty.
5. List of towns so authorized.

OF CLASSED TOWNS.

6. Meetings, when to be holden.

SECTION

7. Meetings, where to be holden.
8. Meetings, how to be holden.
9. List of voters to be posted, &c.
10. Sessions for correcting list.
11. Corrected list, copy to be filed.
12. Proceedings at such meetings.
13. Proceedings when no town clerk.
14. Neglect to warn meeting, penalty.
15. List of towns so classed.

OF THE ELECTION IN TOWNS NOT CLASSED.

SECTION 1. The meeting for the election of representatives to the general court, in towns not classed, shall be holden on the second Tuesday of March annually; but if the election of the requisite number shall not be effected on that day, the meeting may be adjourned to and the election of the number deficient made on the following day, but not afterwards.

SEC. 2. The certificate of election shall be made out, certified and signed in the same manner as the return of votes for governor, and the town clerk shall also certify that the check list was duly posted and used during the balloting on which such representative was chosen; the number of ratable polls in such town; and the number of voters upon the check list as corrected on the day of such annual meeting.

SEC. 3. In determining the number of representatives to which any town or place is entitled, every male inhabitant of twenty-one years of age and upwards, who is a legal voter in such town or

place, or not being a legal voter has resided therein twelve months next preceding the election at which such representative or representatives are to be chosen, or who has been taxed and has paid a poll tax within such town during the year preceding such election, and resided therein six months next preceding the same election, shall be considered a ratable poll; and the names of such persons only shall be considered, in certifying the number of ratable polls in such town or place, upon the check list used in balloting for representatives. (*R. S., chap. 29, sec. 3; laws of 1847, chap. 493, sec. 1.*)

SEC. 4. The clerk of every town specially authorized to send a representative to the general court, shall note on the margin of the certificate of election the time when such authority was given.

SEC. 5. Each of the following towns and places not having the constitutional number of ratable polls, may send a representative to the general court, until otherwise ordered, viz: Atkinson, East Kingston, Greenland, Newington, Newton, Hampton Falls, Poplin, South Hampton, Madbury, Middleton, Centre Harbor, Brookfield, Allenstown, Brookline, Litchfield, Sharon, Temple, Gilsum, Roxbury, Sullivan, Surry, Langdon, Benton, Hebron, Orange, Dalton, Albany, Bennington, Chatham, Franconia, Gosport, Jackson, Sandown and Windsor. (*R. S., chap. 29, sec. 5; laws of 1844, chapters 95, 173, 174; laws of 1847, chapters 508, 509; laws of 1848, chapters 619, 623, 721.*)

OF THE ELECTION IN CLASSED TOWNS.

SEC. 6. The meeting for the election of the representatives of any classed towns may be holden on any day in March except the second Tuesday thereof.

SEC. 7. Such meeting shall be called by warrant under the hands and seal of the selectmen of the town wherein the meeting is by law to be holden for that year, requiring the inhabitants of said classed towns qualified to vote for senator, to meet at a certain place in said town, and at a certain hour therein mentioned, and expressing the purpose of such meeting.

SEC. 8. The selectmen shall post up an attested copy of such warrant at some public place in each of said towns fifteen days at least before such meeting, and return such warrant, with their doings thereon, at the time and place of said meeting.

SEC. 9. The selectmen of the town wherein such meeting is by law to be holden, shall lodge with the clerk thereof, and cause to be posted up at some public place in said town, at least fifteen days previous to said meeting, an alphabetical list of all the legal voters of said town, and shall at said meeting enter on said list the name of every legal voter which shall be upon the list of voters of any town classed therewith.

SEC. 10. The selectmen of each classed town shall hold sessions for the correction of the list of voters in the manner herein-

before provided for other towns, giving at least seven days' notice thereof; but no session shall be holden for such purpose on the day of the election, except in the town in which such election is to be holden.

SEC. 11. An attested copy of the check list, as corrected by the selectmen of each classed town, shall be filed by them with the town clerk of the town in which such meeting is to be holden, before the opening of such meeting, or in his absence with one of the selectmen.

SEC. 12. At such meeting a moderator shall be chosen, and said moderator and the selectmen and clerk of the town wherein such meeting is holden, and the legal voters of each town present, shall have the same rights and powers, perform the same duties, and be subject to the same liabilities and penalties, as if such meeting were a legal meeting of the inhabitants of one town only.

SEC. 13. If there shall be no clerk of the town in which such meeting is to be holden, or in case of his absence, the legal voters of such town present shall choose a clerk of the meeting, who shall be sworn and shall perform the duties by law required of town clerks in town meetings, shall keep a fair record of the proceedings of the meeting, and shall transmit the same duly certified, to the clerk of said town as soon as one shall be elected, who shall record the same in the book of records of the town wherein such meeting is holden.

SEC. 14. If any selectman or town clerk shall neglect to perform any duty required of him by this chapter, he shall be punished by fine not exceeding fifty dollars.

SEC. 15. The following towns and places, not having the constitutional number of ratable polls each, are hereby classed for the election of representatives to the general court in the following manner, and each class may send one representative annually, viz: Carroll, Nash and Sawyer's Location, Hart's Location, and Crawford's Grant; Jackson and Pinkham's Grant; Northumberland and Stratford; Woodstock and Lincoln; Ellsworth and Waterville; Pittsburg and Clarksville; Errol, Millsfield, Dixville, Cambridge and Wentworth's Location; Stark and Dummer; Milan and Berlin; Shelburne, Gorham, Randolph, and Martin and Green's Grant. (*R. S., chap. 29, sec. 15; laws of 1848, chap. 741, sec. 1; laws of 1849, chap. 856, sec. 1; laws of 1852, chap. 1306.*)

CHAPTER 13.

GENERAL PROVISIONS CONCERNING ELECTIONS.

IDENTICAL WITH

Chapter 30 of the Revised Statutes.

SECTION

1. Neglect to return votes prosecuted.
2. Penalties, how recoverable.
3. Limitation of prosecutions.
4. Town clerk may be required to correct his record or return of votes.
5. Penalty for neglect to amend, &c.

SECTION

6. Penalty for betting on elections.
7. What is a bet or wager.
8. Money or property so lost may be recovered back.
9. Fees for return of votes.

SECTION 1. The secretary of state shall, within thirty days after any default in the return of votes, certify the same to the solicitor of the county, which certificate shall be prima facie evidence of such default, and the solicitor shall prosecute every person guilty of such default.

SEC. 2. All fines and penalties accruing under the six preceding chapters for any default or offence, may be recovered by indictment or information, and shall be appropriated one half to the use of the prosecutor, and the other half to the use of the county.

SEC. 3. No prosecution shall be sustained unless commenced within one year after the commission of the offence.

SEC. 4. If the clerk of any town or place shall make an incorrect or insufficient record or return of the votes given therein at any meeting for any of the officers aforesaid, the tribunal by whom said votes are opened and counted, may require said clerk at his own expense to come in and amend said record or return according to the facts of the case.

SEC. 5. If any clerk shall neglect or refuse to appear and amend as aforesaid, he shall be punished by a fine of fifty dollars, to be recovered by indictment or information in the county in which such delinquent resides.

SEC. 6. If any person shall make or accept any bet or wager of money, goods or property of any kind whatever, upon any election for any public officer, or upon the event or result of such election, or upon any of the proceedings thereof, or if any person shall receive any money, goods or other thing, the same having been won upon any such bet or wager, he shall forfeit and pay a sum equal to double the amount of the money or value of the goods or property so received, bet or wagered, to the use of the person who first sues therefor.

SEC. 7. Any contract or agreement made or entered into for the purchase, sale, loan or use of money, or property real or personal, the terms of which are made to depend upon or are to be varied or affected by any such election, or by the event or result

thereof, or of any of the proceedings thereof, shall be deemed to be a bet or wager within the meaning of this chapter.

SEC. 8. If any person shall receive any money or property won by him upon any bet or wager as aforesaid, he shall be liable to the person losing the same, in an action of assumpsit, trover, or other form proper to recover the same.

SEC. 9. The fees of sheriffs for the return of votes to the secretary of state shall be ten cents per mile travel each way from the place of their residence to the capitol in Concord, estimating toll bridges as three miles travel each, but allowing only one travel for all returns made annually; and the secretary, on proper evidence thereof, may pay the same and present his account thereof to the governor, who shall, by and with the advice and consent of the council, draw his warrant on the treasurer therefor.

TITLE VII.

OF TOWNS AND TOWN OFFICERS.

- CHAPTER 32. Of the powers of towns.
- CHAPTER 33. Of the establishment of public libraries.
- CHAPTER 34. Of warning town meetings.
- CHAPTER 35. Of the government of town meetings.
- CHAPTER 36. Of the choice of town officers.
- CHAPTER 37. Of the oaths of town officers.
- CHAPTER 38. Of vacancies in town offices.
- CHAPTER 39. Of town lines.
- CHAPTER 40. Of unincorporated places.

CHAPTER 32.

OF THE POWERS OF TOWNS.

COMPILED FROM

Chapter 31 of the Revised Statutes.
 " 242, Laws of 1845.

SECTION

1. Towns are bodies corporate.
2. Parishes declared to be towns.
3. Towns may hold property and make contracts.

SECTION

4. Towns may raise taxes for certain purposes.
5. Towns may raise ministerial taxes.

SECTION

6. Towns may make by-laws as to prudential affairs.

7. Towns may make by-laws respecting cattle, &c.

SECTION

8. Towns may make by-laws respecting fires and removing combustibles.

9. By-laws remain in force till annulled.

SECTION 1. The inhabitants of every town in this State are declared to be a body corporate and politic, and by their corporate name may sue and be sued, prosecute and defend in any court or elsewhere.

SEC. 2. All places incorporated by the name of parishes, with town privileges, are declared to be towns, and entitled to the privileges, vested with all the powers and subject to all the liabilities of towns.

SEC. 3. Towns may purchase and hold real and personal estate for the public uses of the inhabitants, and may sell and convey the same; and may make any contracts which may be necessary and convenient for the transaction of the public business of the town.

SEC. 4. Towns may at any legal meeting grant and vote such sums of money as they shall judge necessary for the support of schools; for school houses; for the maintenance of the poor; for laying out and repairing highways; for building and repairing bridges; for the repair of meeting houses owned by the town, so far as to render them useful for town purposes; and for all the necessary charges arising within the town.

SEC. 5. Towns may vote such sums of money as may be necessary to fulfil any existing contract made between the town and any settled minister before the first day of July, 1819: *provided*, no person shall be taxed for the purpose of fulfilling such contract, who shall have filed with the town clerk, before the assessment of such tax, a certificate declaring himself not to be of the religious persuasion or opinion of such minister.

SEC. 6. Every town may make rules and by-laws for managing and ordering the prudential affairs of such town, and may annex penalties thereto not exceeding four dollars for one offence, and enuring to such uses as they may direct.

SEC. 7. Any town may make by-laws to prevent horses, mules, asses, neat cattle, sheep and swine from going at large in any street, highway or common, or in any public place in the town, at any time of the year therein provided, on penalty that the owner shall forfeit a sum not exceeding four dollars for any breach thereof.

SEC. 8. Each town may, at any town meeting legally called for that purpose, make and establish such rules and regulations respecting the kindling, guarding and safe keeping of fires, and for the removing all combustible materials from any building or place, as the safety of the property in such town may require; and may appoint in such manner as may be prescribed in such regulations, all such officers as may be necessary to carry such regulations into effect, and may affix penalties not exceeding ten dollars for any

one offence, to be recovered in such manner and appropriated to such use as the town may direct. (*Laws of 1845, chap. 242.*)

SEC. 9. By-laws adopted by any town shall continue in force until altered or annulled by vote of the town or by law.

CHAPTER 33.
OF THE ESTABLISHMENT OF PUBLIC LIBRARIES.

IDENTICAL WITH
Chapter 861, *Laws of 1841.*

SECTION

1. Towns or cities may raise money to establish public libraries.
2. Libraries to be free.

SECTION

3. Towns or cities may receive gifts, &c., for library.
4. Libraries established under this act to receive laws, journals, &c.

SECTION 1. Any town in this State, at any legal meeting notified and holden for the purpose, and the city council in any city in this State, may raise and appropriate money to procure books, maps, charts, periodicals, and other publications, for the establishment and perpetual maintenance within the limits of such town or city of a public library, for the purchase of such land and the erection of such buildings as may be necessary for the suitable accommodation thereof, and for the compensation of such officers or agents as may be necessarily employed in the establishment and management of such library.

SEC. 2. Every public library established under the provisions of this act, shall be opened to the free use of every inhabitant of the town or city where the same exists, for the general diffusion of intelligence among all classes of the community, subject to such rules and regulations for the well ordering and careful preservation thereof, as may be established and ordained by such town or city.

SEC. 3. Any town or city may receive, hold and possess, or sell and dispose of, all such gifts, donations, devises, bequests and legacies as may be made to such town or city, for the purpose of establishing, increasing or improving any such public library, and may apply the proceeds, interests, rents and profits accruing therefrom, in such manner as will best promote the prosperity and utility of such library.

SEC. 4. Every town or city in which a public library shall be established under the provisions of this act, shall be entitled to receive annually a copy of the laws, journals, and all other works

published by authority of the State, for the use of such library; and the secretary of state is hereby authorized and required to furnish the same from year to year to such town or city.

CHAPTER 34.

OF WARNING TOWN MEETINGS.

IDENTICAL WITH
Chapter 32 of the Revised Statutes.

SECTION

1. Meetings, when to be holden.
2. Warrant, how to be drawn.
3. Articles to be inserted on application.
4. Warrant, how posted by selectmen.
5. Warrant, how served by constable.
6. Towns may prescribe other modes.
7. Warrant to be returned.

SECTION

8. Meetings warned in case of death of selectmen.
9. Justice may warn on refusal of selectmen.
10. Justice may warn on failure of meeting.
11. Form of warrant and proceedings.
12. Neglect to warn meeting, penalty.

SECTION 1. The annual meeting of every town shall be holden on the second Tuesday or other day, in March annually, for the choice of town officers and the transaction of all other town business. A town meeting may be warned by the selectmen when in their opinion there shall be occasion therefor.

SEC. 2. The warrant for any town meeting shall be under the hands and seal of the selectmen, and shall prescribe the place, day and hour of the meeting. The subject matter of all business to be there acted upon shall be distinctly stated in the warrant, and nothing done at any meeting shall be valid unless the subject thereof was so stated.

SEC. 3. The selectmen, upon the written application of ten or more voters or of one sixth of the voters in the town, shall insert in their warrant for the annual, or any other meeting, any subject specified in such application, or shall warn a meeting therefor, if requested in such application.

SEC. 4. The selectmen may address their warrant to the inhabitants of the town qualified to vote in town affairs, in which case they shall post up an attested copy of such warrant, at the place of meeting, and a like copy at one other public place in the town fifteen days before the day of meeting.

SEC. 5. Warrants for town meetings may be directed to a constable of such town, requiring him to notify the inhabitants; and such constable shall post up an attested copy of such warrant, as provided in the preceding section.

SEC. 6. Any town may by vote prescribe a different method of warning meetings; and the meetings warned in pursuance of such vote shall be legal and valid.

SEC. 7. The selectmen, or the constable serving any warrant, shall return the same at the time and place of meeting, with a certificate of the service thereof, to the town clerk, or in his absence to one of the selectmen.

SEC. 8. In case of the death or removal of any of the selectmen of a town, the major part of those who remain in office shall have power to warn meetings.

SEC. 9. If the selectmen shall unreasonably neglect or refuse to warn a meeting, or to insert any article in their warrant, a justice of the peace, upon application in writing of one sixth part of the voters of such town, may issue a warrant for such meeting.

SEC. 10. If the annual meeting in any town shall not have been holden, or if there has never been any legal meeting of such town, a justice of the peace, on application of ten voters or of one sixth part of the voters of the town, may issue a warrant for such meeting.

SEC. 11. The warrant of a justice of the peace for a town meeting shall be under his hand and seal, directed to a constable of the town, if any there be, otherwise to one of the voters applying; shall specify the time, place and object of such meeting, and shall be served and returned in the same manner as warrants issued by selectmen.

SEC. 12. If any selectmen shall neglect to issue a warrant for the holding of meetings for the choice of state, county or town officers, electors of president and vice-president of the United States, and representatives in Congress; or shall neglect to cause copies of such warrant, if not directed to a constable, to be duly posted up, or notice of such meeting to be given agreeably to any vote of the town, they shall for each offence forfeit the sum of fifty dollars, one half to the use of the town, the other half to any person who may sue for the same.

CHAPTER 35.

OF THE GOVERNMENT OF TOWN MEETINGS.

COMPILED FROM

Chapter 33 of the Revised Statutes.

" 490, Laws of 1847.

" 494, " " 1847.

SECTION

1. Selectmen to preside.
2. When justice to preside.
3. Moderator, his duties.
4. Poll of voters, and penalty for refusing.

SECTION

5. Moderator, choice of, if office vacant.
6. Speaking in town meeting.
7. Disorders, how corrected.
8. Constables to obey moderator.

SECTION 1. At every town meeting the first or senior selectman present, and if no selectman be present, the town clerk shall preside until a moderator is chosen, and shall have the powers and perform the duties of moderator. (*R. S., chap. 33, sec. 1.*)

SEC. 2. When there are no selectmen or town clerk of the town, it shall be the duty of the justice calling such meeting to attend and preside until a moderator is chosen. (*R. S., sec. 2.*)

SEC. 3. At any town meeting in any town or place in this State, the moderator of said meeting shall be chosen by the vote of a plurality of the legal voters present and voting for said officer, [*Laws of 1847, chap. 490,*] who shall be sworn and shall preside in and regulate the business of the meeting; may prescribe rules of proceeding therein, which may be altered by the town; shall decide all questions of order and make a public declaration of all the votes passed. (*Part of R. S., sec. 3.*)

SEC. 4. When any vote declared by any moderator or other officer presiding in town meeting shall immediately, and before any other business is commenced, be questioned by seven or more of the voters present, the moderator or other presiding officers, shall make the vote certain by a *poll of the voters*. And if any moderator or other officer presiding in town meeting, shall wilfully neglect or refuse to make any vote certain by a poll of the voters, when required as aforesaid, or shall wilfully violate or neglect to enforce any rule of proceeding in town meeting which shall have been established by vote of the town or otherwise, he shall for each offence be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months. (*Laws of 1847, chap. 494, sec. 1.*)

SEC. 5. Whenever any moderator of any town meeting shall from any cause resign or leave his place as moderator and cease to preside in the meeting before the adjournment or dissolution thereof, the voters present may proceed forthwith to choose by ballot a

new moderator, who shall be sworn and proceed in the meeting to the close thereof, in the same manner as the moderator first chosen might have done; and the first or senior selectman present, and if no selectman be present, the town clerk shall preside until such new moderator shall be chosen. (*Laws of 1847, chap. 494, sec. 2.*)

SEC. 6. No person shall speak in any meeting without leave of the moderator, nor when any person is orderly speaking; and all persons shall be silent at the desire of the moderator, on pain of forfeiting one dollar for each offence, for the use of the town. (*R. S., chap. 33, sec. 5.*)

SEC. 7. If any person shall conduct in a disorderly manner, and after notice from the moderator shall persist therein, or shall in any way disturb the meeting or wilfully violate any rule of proceeding therein, the moderator may command any constable or any legal voter of such town to carry such disorderly person out of the meeting and detain him until the business of the meeting is finished. (*R. S., chap. 33, sec. 6.*)

SEC. 8. Every constable shall obey the orders and commands of the moderator for the preservation of order, and may command such assistance as is necessary; and if any constable shall neglect to perform any of the duties imposed by this or the preceding chapter, he shall forfeit the sum of forty dollars, one half for the use of the town, the other half to any person who will sue for the same. (*R. S., chap. 33, sec. 7.*)

CHAPTER 36.

OF THE CHOICE OF TOWN OFFICERS.

COMPILED FROM

Chapter 34 of the Revised Statutes.
" 993, Laws of 1850.

SECTION

1. Town clerk, choice and duties.
2. Selectmen, " " "
3. Assessors, " " "
4. Agents, overseers, &c.
5. Treasurer to give bonds within six days of election, or office vacant.

SECTION

6. If towns fail to elect treasurer, selectmen may appoint.
7. Constables and other officers.
8. Term of office.

SECTION 1. Every town at the annual meeting shall choose by ballot and by major vote a town clerk, whose duty it shall be to record all votes passed by the town while he may remain in office, and to discharge all the duties of the office according to law.

SEC. 2. At such meeting three or more selectmen, not exceed-

ing nine, shall be chosen by ballot and by major vote, who shall manage all the prudential affairs of the town, and shall perform all the duties by law prescribed. A majority of the selectmen shall be competent to act in all cases.

SEC. 3. Any town may choose assessors by ballot and by major vote, who shall constitute, with the selectmen, a joint board for the assessment of taxes; and all questions arising at such board shall be decided by a major vote of the joint members thereof.

SEC. 4. Any town may choose by major vote one or more agents, overseers of the poor, a treasurer, firewards and health officers. If such officers are not chosen, the selectmen shall discharge the duties and have the powers of those officers.

SEC. 5. Every person who shall be elected or appointed to the office of town treasurer, shall within six days after his election or appointment, and before entering upon the duties of his office, give a bond with sufficient sureties to the acceptance of the town or of the selectmen for the faithful performance of his said official duties; and in default thereof the office shall become vacant. (*Laws of 1850, chap. 993.*)

SEC. 6. If any town at its annual meeting shall fail to elect a treasurer, it shall be the duty of the selectmen of such town within fourteen days thereafter to appoint a treasurer, and they may appoint one of their number to that office if they shall deem it expedient. (*Laws of 1850, chap. 993.*)

SEC. 7. Every town may choose, by major vote, one or more constables; one or more collectors of taxes; surveyors of highways; fence-viewers; a clerk of the market; sealers of weights and measures; hog-reeves; a pound-keeper; measurers of wood; surveyors of lumber; cullers of staves; and every other officer who may be directed by law to be chosen, and such other officers as they may judge necessary for managing their affairs, who shall severally perform the duties prescribed by law.

SEC. 8. All town officers shall continue in office until the next annual meeting for the choice of town officers, and until others shall be chosen and sworn in their stead, except in cases when the law shall otherwise direct.

CHAPTER 37.

OF OATHS OF TOWN OFFICERS.

IDENTICAL WITH

Chapter 35 of the Revised Statutes.

SECTION

1. Town officers to be sworn.
2. Form of oath.
3. Moderator to notify officers.
4. Town clerk to notify officers.
5. Penalty for neglect of constable to notify.

SECTION

6. Penalty for neglect of officer to take oath.
7. When excused from penalty.
8. Oaths to be recorded.
9. No one compelled to serve two years, nor as collector.

SECTION 1. Every town officer shall take the oath of office by law prescribed before the moderator, the town clerk, one of the selectmen or a justice of the peace, who are hereby authorized to administer such oath.

SEC. 2. The form of the oath to be administered to town officers shall be :

" You do solemnly swear that you will faithfully and impartially discharge and perform all the duties incumbent on you as a , according to the best of your abilities, agreeably to the rules and regulations of the constitution and laws of the State of New Hampshire. *So help you God.*"

SEC. 3. Any person chosen to any office may be notified by the moderator, town clerk or one of the selectmen, in open meeting, to take the oath of office ; and such person, if present, shall immediately, in open meeting, take such oath or declare his refusal ; and any person so chosen and notified not exempt from serving in such office, who shall refuse or neglect for one hour to take such oath, shall incur a penalty of five dollars, one half for the use of the town, the other half for the use of any person who will sue for the same.

SEC. 4. The town clerk shall forthwith, after the choice of any town officers, by a precept under his hand, direct a constable to notify the persons so chosen, whose names and the offices to which they are chosen shall be designated therein, to appear before him within six days from the day of the notice given, and take the oath by law prescribed ; and the constable shall within four days give personal notice to the persons therein named, or leave a notice in writing at the usual place of abode of each of them, and make return of such precept and his doings therein to such town clerk within ten days.

SEC. 5. Any constable neglecting his duty in any of the foregoing particulars, shall incur a penalty of five dollars, one half to

the use of the town, the other half to the use of the person who will sue for the same.

SEC. 6. Every person so chosen and notified, not by law exempt from serving therein, who shall neglect for six days after personal notice, or after notice left at his usual place of abode, or after his return in case he was absent when such notice was left, to appear before said town clerk and take such oath, shall incur a penalty of five dollars, to be recovered and appropriated as in the preceding section.

SEC. 7. Any person so chosen and notified, who shall take the oath of office before one of the selectmen or a justice of the peace, and file a certificate thereof with the town clerk within said six days, shall be exempted from such penalty.

SEC. 8. The town clerk shall make a record of every oath of a town officer taken in open town meeting at the time of the election, and of every such oath taken before him at any other time and place, the import of which record may be that the officer took the oath of office prescribed by law, and he shall record and keep on file every certificate filed with him pursuant to the preceding section.

SEC. 9. No person shall be obliged to serve in any town office two years successively, nor shall any person in any case be compelled to serve as a collector of taxes.

CHAPTER 38.

OF VACANCIES IN TOWN OFFICES.

IDENTICAL WITH

Chapter 36 of the Revised Statutes.

SECTION

1. Town may elect to fill vacancies.
2. Powers of officers so chosen.
3. Selectmen may appoint collector, in what cases.
4. Collector to give bond; otherwise office vacant.

SECTION

5. Town may fix collector's compensation.
6. Selectmen may appoint officers.
7. Selectmen may appoint treasurer.

SECTION 1. When any person elected to any town office shall not accept the same, or shall die, resign, remove from town, or become insane in the judgment of the town, or when no annual meeting shall have been holden for the choice of town officers, or no choice has been made, or when there shall be a vacancy in any other way, the town may choose such officer at any legal meeting

holden for that purpose, or at the adjournment of the annual meeting.

SEC. 2. The powers, duties and liabilities of every officer so chosen, shall be the same as if he was chosen at the annual meeting; and he may take up the business appertaining to his office where his immediate predecessor left it, and proceed to the full execution of the same.

SEC. 3. Where any town shall neglect or refuse to choose a collector of taxes, or to fill a vacancy in that office, or where any town shall by a vote at their annual meeting so direct, the selectmen may appoint a collector or collectors of taxes, whose powers, duties and liabilities shall be the same as those of collectors chosen by the town.

SEC. 4. Every collector or constable shall within six days after his election or appointment give a bond, with sufficient sureties to the acceptance of the town or of the selectmen, for the faithful performance of the duties of his office, and in default thereof the office shall become vacant.

SEC. 5. Every town may, at their annual meeting, determine by vote or otherwise, the rate or amount of compensation to be allowed the collector of taxes for his services; and whenever the selectmen shall appoint a collector, they shall make a written agreement as to such compensation, which shall be signed by the selectmen and collector.

SEC. 6. Whenever a vacancy shall occur in any town office other than that of selectmen, the selectmen may in writing appoint some suitable person to the office, who shall be sworn; and his appointment and a certificate of such oath being recorded in the records of the town, he shall have the powers, perform the duties and be subject to the liabilities of such office until another person shall be chosen and qualified; and it shall be the duty of the selectmen without delay so to appoint a town clerk whenever a vacancy shall occur in that office.

SEC. 7. The selectmen being authorized by vote of the town, shall appoint a treasurer within fourteen days after their election, and fix his compensation by a written contract. Such treasurer shall be sworn, shall give bonds for the faithful discharge of his duties to the satisfaction of the selectmen, and shall hold his office during their pleasure.

CHAPTER 39.

OF TOWN LINES.

IDENTICAL WITH
Chapter 37 of the Revised Statutes.

SECTION

1. West line of towns on the Connecticut.
2. Lines to be perambulated.
3. Returns of perambulations.

SECTION

4. What towns to give notice.
5. Penalties for neglect of duty.
6. Court of common pleas to determine disputed lines.

SECTION 1. The northerly and southerly lines of towns adjoining Connecticut river, are continued and extended across said river to the westerly line of the State, and the west line of the State is declared to be the western boundary of such towns.

SEC. 2. The lines between the towns in this State shall be perambulated, and the marks and bounds renewed once in every seven years forever, by the selectmen of such towns, or by such person as they shall in writing appoint for that purpose.

SEC. 3. A return of such perambulation shall be made, particularly describing the courses and distances, and the marks and monuments of such line; which shall be signed by the selectmen or persons making the same, and recorded in the respective town books.

SEC. 4. The selectmen of the town first incorporated, or, if both were incorporated on the same day, of the town which is highest in the proportion of public taxes, shall give to the selectmen of the town adjoining, notice of the time and place of meeting for such perambulation, ten days before the day of meeting.

SEC. 5. If the selectmen whose duty it is to give such notice, shall neglect to notify as aforesaid, or shall neglect to attend agreeably to such notice; or if the selectmen of any town after being duly notified, shall neglect to attend; or if any selectmen shall neglect to cause a return of such perambulation to be made and recorded as aforesaid, each selectman so neglecting shall forfeit twenty dollars, one half for the use of the town whose selectmen have done their duty, and the other half to the use of such of said selectmen as shall sue for the same.

SEC. 6. When the selectmen of adjoining towns shall disagree in renewing and establishing the lines and bounds of such towns, the court of common pleas for the county in which the town first incorporated, or paying the highest tax as aforesaid, is situate, upon petition and after notice to the other town interested, shall, by

themselves or a committee for that purpose, examine said disputed lines, and their decision thereon shall be final, and the court may order either or both towns to pay the costs, as they may think just.

CHAPTER 40.

OF UNINCORPORATED PLACES.

IDENTICAL WITH

Chapter 38 of the Revised Statutes.

SECTION 1. All places unincorporated, which shall be required to pay any public tax, are invested with the powers of towns relating to the choice of moderator and clerk, of selectmen, assessors and collectors; and all the provisions of the laws applicable to towns and town officers, are extended to such unincorporated places and their officers, so far as they relate to meetings for the choice of such officers, and to their election, powers, duties and liabilities, and so far as they relate to public highways, the assessment and collection of public taxes, and the perambulation of the lines of such places.

TITLE VIII.

OF THE ASSESSMENT AND COLLECTION OF TAXES.

- CHAPTER 41. Of persons and property liable to taxation.
 CHAPTER 42. Where and to whom persons and property shall be taxed.
 CHAPTER 43. Of the annual invoice of polls and taxable property.
 CHAPTER 44. Of the appraisal of taxable property.
 CHAPTER 45. Of the assessment of taxes.
 CHAPTER 46. Of the return of inventories.
 CHAPTER 47. Of the abatement of taxes.
 CHAPTER 48. Of the collection of taxes of residents.
 CHAPTER 49. Of the collection of taxes of non-residents.
 CHAPTER 50. Of the collection of taxes by sheriffs.
 CHAPTER 51. Of extents.

CHAPTER 41.

OF PERSONS AND PROPERTY LIABLE TO TAXATION.

COMPILED FROM

Chapter 39 of the Revised Statutes.

" 34, Laws of 1843.
 " 141, " " 1844.
 " 332, " " 1846.
 " 848, " " 1849.
 " 1294, " " 1852.

SECTION

1. Male polls.
2. Real estate.
3. Personal property.
 1. Stock in funds.
 2. Stock in corporations.
 3. Surplus capital in banking institutions.
 4. Money on hand and on interest.
 5. Stock in trade.
 6. Carriages.

SECTION

7. Horses.
8. Neat cattle.
9. Sheep.
4. Railroads, how taxed, when and how tax to be paid.
5. Tax, how distributed.
6. Statement of shares to be furnished.
7. Treasurer to issue an extent, if railroads neglect to pay tax by first Wednesday of September.

SECTION 1. All male polls from twenty-one to seventy years of age are liable to be taxed, except paupers and insane persons.

SEC. 2. All real estate, except houses of public worship, school houses, seminaries of learning and property of the State and county, whether improved or unimproved, and whether owned by residents or others, is liable to be taxed; buildings, mills, carding machines, factory buildings and machinery, wharves, ferries, toll bridges, locks and canals, shall, for the purpose of taxation, be deemed real estate; all real estate owned by any railroad corporation, except such as is used for their road and other ordinary and usual purposes of the corporation, and all real estate owned or occupied by such corporation for their road, for which they have not expended any part of their capital stock in such a manner as that the several towns through which such roads pass receive one fourth of one per cent. according to the provisions of chapter thirty-nine of the revised statutes, (sections four and five of this chapter,) shall be appraised and taxed in the several towns where the same may be located, in the same way as is by law provided for appraising and taxing real estate. (*R. S., chap. 39, sec. 2, as amended by laws of 1844, chap. 141.*)

SEC. 3. Personal property liable to be taxed is:

1. Stock in public funds.

2. Stock in corporations in this State, except manufacturing and railroad corporations, and stock in any corporation out of this State if not there assessed; *provided* that in either case a dividend or income is or may be derived from said stock, and notwithstanding such stock is mortgaged, pledged, or otherwise conveyed as security.

3. The surplus capital on hand in banking institutions in this State. (*Laws of 1849, chap. 848.*)

4. Money on hand or at interest more than the owner pays interest for, including money deposited in any bank or savings institution, or loaned on any mortgage, pledge, obligation, note, or other security whatever, whether on interest or interest be paid or received in advance.

5. Stock in trade, whether of merchants or shopkeepers, mechanics or tradesmen, employed in their trade or business, reckoning the same at the average value thereof for the year; all raw materials and manufactures of any manufactory, all wood, timber, logs and lumber, manufactured or otherwise, if exceeding fifty dollars in value; [and all fishing vessels] (*Laws of 1846, chap. 332,*) shall, for the purpose of taxation, be deemed stock in trade.

6. All carriages, if exceeding fifty dollars in value.

7. All horses, asses and mules over eighteen months old.

8. All oxen, cows and other neat stock over eighteen months old.

9. All sheep over six months old. (*R. S., chap. 39, sec. 3, as amended.*)

SEC. 4. Every railroad corporation shall pay to the treasurer of the State, on or before the first Wednesday of September annually, one per cent. on the value on the first day of January preceding, of that part of its capital stock expended within this State,

to be determined by the certificate of the justices of the superior court; said tax shall be assessed by said justices in proportion as near as may be to the taxation of other property on the first day of April of each year in the several towns in which said railroads are situate. It shall be the duty of said railroad corporation to furnish said justices all the necessary evidence for their action therein, and give reasonable notice to the state treasurer in writing of any application made for the assessment of taxes so that he may attend at the hearing thereon if deemed necessary. (*R. S., chap. 39, sec. 4, as amended by laws of 1843, chap. 34, sec. 3 and 4.*)

SEC. 5. The treasurer of said State shall assign and distribute on or before the first day of December annually all sums so received by him in the following manner:

1st. To the several towns in which any railroad may be located, one fourth of said one per cent. paid by said railroad corporation, each town to receive in proportion to the capital stock expended therein for buildings and the right of way.

2d. To the several towns in this State in which stock in any railroad shall have been owned on the first day of the April next preceding, three fourths of the one per cent. paid by said corporation on the stock owned in such town, upon receiving from the selectmen thereof satisfactory evidence that the same was owned in said town on said first day of April; said three fourths of one per cent. to be by the selectmen of the town receiving the same, appropriated in just proportions to the several purposes for which taxes are assessed upon the polls and estates of such stockholders within such town.

3d. The remainder for the use of the State. (*R. S., sec. 5, amended by laws of 1843, chap. 34, sec. 3.*)

SEC. 6. It shall be the duty of the agent of every such railroad corporation to transmit to the treasurer of the State, on or before the first day of June annually, a certified statement of the number of shares in such corporation owned in each town in this State on the first day of April annually, and by whom owned, and such other information as may be required to carry out the provisions of this and the two preceding sections. (*R. S., sec. 6.*)

SEC. 7. Whenever any railroad corporation in this State shall neglect to pay to the treasurer of the State on or before the first Wednesday of September annually all taxes annually assessed on them by law as provided by the third section of chapter thirty-four of the laws of this State, approved July first, one thousand eight hundred and forty-three, [section 5 of this chapter as now amended,] it shall be the duty of the treasurer of this State to issue an extent for all sums which shall remain unpaid after said day, and the same may be levied upon the property of such corporation. (*Laws of 1852, chap. 1294.*)

CHAPTER 42.

WHERE AND TO WHOM PERSONS AND PROPERTY SHALL BE TAXED.

COMPILED FROM

Chapter 40 of the Revised Statutes.

“ 332 Laws of 1846.

“ 848, “ “ 1849.

“ 972, “ “ 1850.

“ 991, “ “ 1850.

SECTION

1. Inhabitants, how taxed.
2. Students at literary institutions.
3. Persons removing from town.
4. Stock in corporations and surplus capital in banks.
5. Property of manufacturing and other corporations.
6. Animals and stock in trade kept in any town, there taxed.
7. Fishing vessels, where taxed.
8. Wood and lumber, taxed where found on the first day of April; selectmen to give notice.
9. Property taxed to the person in possession.

SECTION

10. Personal property in unorganized places, how taxed.
11. Persons in possession refusing, how taxed.
12. If no person in possession, how taxed.
13. Unimproved lands of non-residents.
14. Estates of persons deceased.
15. Estates of wards and trust funds.
16. Persons believed to be inhabitants to be assessed.
17. When taxes of such to be abated.
18. Lien and remedy of persons taxed for property of others.
19. Keeper of stud horse to give security for tax.
20. Penalty for refusal.

SECTION 1. Every person shall be taxed in the town in which he is an inhabitant or resident on the first day of April, for his poll and estate, except in cases otherwise provided for by law. (*R. S., chap. 40, sec. 1.*)

SEC. 2. Residence in any town merely for the purpose of obtaining an education at any literary institution, shall not subject the person so residing to taxation in such town. (*R. S., chap. 40, sec. 2.*)

SEC. 3. In case any person shall remove from town on or after the first day of April, he shall pay his taxes that year in the town from which he removed. (*R. S., chap. 40, sec. 3.*)

SEC. 4. The surplus capital on hand in banking institutions in this State shall be taxed in the towns wherein such banking institutions are located; [*Laws of 1849, chap. 848,*] stock in banks, insurance and other corporations, except railroads and manufacturing corporations in this State, shall be taxed to the owner thereof in the town in which he resides, if in this State, otherwise to the corporation in the town in which its principal office or place of business in the State shall be kept. (*R. S., sec. 4.*)

SEC. 5. Taxable property of manufacturing corporations in this State, and property taxable to any other corporation, shall be taxed to such corporation by its corporate name in the town or place in which it is situate, except in cases where other provision is made. (*R. S., chap. 40, sec. 5.*)

SEC. 6. All animals liable to be taxed kept in any town, and all stock in trade employed in any town, owned by any person not resident therein, shall be taxed in such town to the owner or person having the care thereof on the first day of April, whether such person be a resident in the town or not. (*R. S., chap. 40, sec. 6.*)

SEC. 7. In all cases where any fishing vessel shall be employed in any business or trade transacted at any port or harbor, and shall sail from or return to such port or harbor to discharge their cargo, such fishing vessel shall be assessed and taxed in the town or place within which such port or harbor may be, in the same way and manner as stock in trade may now be taxed by the sixth section of this chapter; *provided*, that the provisions of this section shall not apply to fishing vessels owned in this State which sail to and from and whose business is done at ports or places out of the State. (*Laws of 1846, chap. 332.*)

SEC. 8. All wood, bark, timber, logs and lumber, manufactured or otherwise, exceeding fifty dollars in value, shall be taxed to the owner or owners thereof, in the town or towns where the same shall be on the first day of April in each year, if such owner or owners be known; and if such owner or owners be not known, to the person or persons having the same in their care or custody on said first day of April, and any person or corporation which shall permit wood, bark, timber, logs and lumber to be laid on their premises shall be deemed to have the same in their care or custody for the purposes aforesaid, and shall have a lien on said property for the payment of said taxes; *provided*, that one or more of the selectmen or assessors taking the inventory shall, prior to or at the time of taking the same, give to the person or corporation permitting such wood, bark, timber, logs and lumber to be laid on their premises, or to any of their agents, or their tenants in possession, having care and supervision of their property in the said town or towns, a notice in writing by him or them subscribed, stating the kind of property, the place where it is situate, and that they intend to tax the same; and an affidavit made by the selectmen or assessors serving the said notice, shall be evidence of the fact in any court of law. (*Laws of 1850, chap. 991.*)

SEC. 9. All real and personal property shall be taxed to the person claiming the same, or to the person who is in the possession and actual occupancy thereof; *provided* such person will consent to be taxed for the same; but such real estate shall be taxed in the town in which it is situate. (*R. S., chap. 40, sec. 7.*)

SEC. 10. Any personal property liable by law to be assessed in public taxes, being on the first day of April in any unorganized place in this State, and the owner of which resides in an organ-

ized town or place, may be taxed to the owner in the town or place where he resides. (*Laws of 1850, chap. 972.*)

SEC. 11. If any person not the owner shall be living on any farm or in any house on the first day of April, and shall refuse to be taxed for it, the same shall be taxed as resident by the number of the lot or such other description as it is commonly known by, with the name of the occupant as such; and all property so taxed shall be holden and liable to be sold in the same manner that the real estate of residents is holden and sold for taxes. (*R. S., chap. 40, sec. 8.*)

SEC. 12. If no person shall be in possession or occupation of any buildings deemed by the selectmen to be tenantable, or of any other real estate improved as pasture, mowing, arable, or otherwise, the same shall be taxed as non-resident by such description as it may be readily known by, with the name of the owner, if known. (*R. S., chap. 40, sec. 9.*)

SEC. 13. Unimproved lands of non-residents shall be taxed in the name of the owner if known, otherwise in the name of the original proprietor, if known, otherwise without any name and by the number of lot and ranges if lotted, and the quantity thereof, or by such other description as it may be readily known by. (*R. S., chap. 40, sec. 10.*)

SEC. 14. Estates of persons deceased may be taxed to the widow, any of the children, heirs, or other person who will consent to be considered as in possession thereof, otherwise to the heirs generally of such deceased person. (*R. S., chap. 40, sec. 11.*)

SEC. 15. The real and personal estate of any legatee or ward, and all taxable property held in trust, shall be assessed to the administrator, trustee, or guardian, or other person holding such property in trust; the real estate in the town in which it is situate, and the personal estate in the town in which such administrator, trustee or guardian may reside, if in this State, otherwise in the town in which such legatee, ward, or person beneficially interested may reside; *provided, however*, that stock and all goods and chattels shall be taxed in the town in which they are kept. (*R. S., chap. 40, sec. 12.*)

SEC. 16. The selectmen shall assess all persons whom they believe to be inhabitants of the town on the first day of April. If any person so assessed shall tender to the selectmen his affidavit, stating that before the first day of April he had removed from said town and become an inhabitant of any other specified place, and answer such interrogatories under oath as the selectmen may propose relative to his residence, they may suspend the collection of such tax. (*R. S., chap. 40, sec. 13.*)

SEC. 17. If the person so assessed and examined shall, within one year from said first day of April, produce to said selectmen the certificate, under oath, of the selectmen of any other town, that he was assessed in that town as an inhabitant, and how much, and has paid the tax, and that the same is the legal tax for the

year upon his poll and whole estate, the first mentioned tax may be abated, otherwise it shall be collected. (*R. S., chap. 40, sec. 14.*)

SEC. 18. Any person or corporation to whom any tax may be legally assessed upon the property of any other person or corporation, shall have a lien upon such property and the income or dividends thereof, until such tax is repaid to them, shall be allowed the same upon settlement of their accounts, and shall have a right to recover the same against the owner by action for money paid to his use. (*R. S., chap. 40, sec. 15.*)

SEC. 19. The selectmen shall appraise and assess, in all taxes of the year, every stud horse or ass which shall be kept in the town for the use of mares at any time after the first day of April, and may require the owner or person having the care of such animal to give security to their satisfaction to pay such taxes or produce satisfactory proof, within thirty days, that such animal has been duly taxed in some other town in this State. (*R. S., chap. 40, sec. 16.*)

SEC. 20. If the owner or person having care of such stud horse or ass shall neglect or refuse to give such security upon request, he shall forfeit three times the amount of the tax so assessed, for the use of the town. (*R. S., chap. 40, sec. 17.*)

CHAPTER 43.

OF THE ANNUAL INVOICE OF POLLS AND TAXABLE PROPERTY.

IDENTICAL WITH

Chapter 41 of the Revised Statutes.

SECTION

1. Invoice to be taken in April.
2. Selectmen to give notice.
3. Selectmen may make personal application.
4. Account to be exhibited on oath.
5. Doomage, in case of neglect.
6. Wilful omission, penalty.

SECTION

7. Agents of corporations to give account of taxable property and of shares of non-residents.
8. Doomage, in case of neglect.
9. Agents of corporations to give list of shares and deposits of residents.
10. Penalty for neglect.

SECTION 1. The selectmen of each town shall annually, in the month of April, take an invoice of all the polls and property liable to be taxed in such town on the first day of the same month.

SEC. 2. The selectmen may seasonably give notice of the time and place appointed by them to receive an account of the polls and taxable property in such town, by posting up advertisements at some public place or places in such town, or in any other manner the town may at any legal meeting direct.

SEC. 3. The selectmen or either of them may make personal application to the respective inhabitants of the town, to any person having the care of personal property taxable therein, and to the officers of any corporation, for an account of the polls and ratable estate for which they are liable to be taxed.

SEC. 4. All persons liable to be taxed in such town shall exhibit to the selectmen, at the time and place appointed by them, or upon such personal application, a true account of the polls and estate for which they are there taxable, either in their own right or otherwise, on oath if required by either of the selectmen, which oath either of the selectmen may administer.

SEC. 5. If any person shall neglect or refuse after due notice given as aforesaid, or when called upon by any selectman, to give such account, the selectmen shall set down to such person, by way of doomage, as much as they judge equitable, which shall be conclusive in all cases, unless the party shall show by his statement under oath, that it was not in his power to exhibit such statement.

SEC. 6. If any person, in giving to the selectmen such account, shall wilfully omit any part of the estate for which he is taxable, the selectmen may, upon discovery of the fraud, assess such person in all taxes of that year four times as much as such estate, if given in, would be legally taxable.

SEC. 7. The cashier, treasurer, agent, or other principal officer of every bank, savings institution, insurance company or other corporation shall, on application in person or by writing by any selectman, furnish at the principal place of business of such corporation an account in writing, on oath if required, of all the ratable estate of such corporation, and a like account of all shares and deposits therein which are owned by any person resident, or corporation established out of the State, within four days after such application.

SEC. 8. If such officer of any corporation as aforesaid shall neglect or refuse, upon application, to give such account of its ratable estate, such corporation may be doomed in the same manner as individuals; and if any such property shall be wilfully omitted in such account, such corporation may be assessed four fold therefor, in the same manner as individuals are liable.

SEC. 9. The cashier or other principal officer of every bank or other corporation as aforesaid shall, upon such application, furnish a like account of all shares or deposits therein owned by any inhabitant of the town of which the person applying is selectman, and the value thereof, whether mortgaged or pledged or not, within four days after such application is made.

SEC. 10. If any such officer or agent shall wilfully neglect or refuse to furnish as aforesaid any such account as is required in this chapter, he shall forfeit a sum not less than one hundred nor more than four hundred dollars, for the use of such town.

CHAPTER 44.

OF THE APPRAISAL OF TAXABLE PROPERTY.

COMPILED FROM
Chapter 42 of the Revised Statutes.
“ 142, Laws of 1844.
“ 1291, “ “ 1852.

SECTION

1. Selectmen to appraise.
2. Several interests and timber to be appraised separately.
3. Manner of making invoice.

SECTION

4. Buildings on improved and unimproved lands to be set down in invoice.
5. Deduction from invoice of insane persons.

SECTION 1. The selectmen shall appraise all taxable property at its full and true value in money, and shall receive and consider all such evidence as may be exhibited to them relative to the value of shares in corporations and other property, the value of which cannot be determined by personal examination. They shall deduct from the appraised value of shares in any corporation a just proportion of the value of any estate of such corporation which shall be legally taxed elsewhere, upon satisfactory evidence thereof under oath. (*R. S., sec. 1.*)

SEC. 2. Whenever it shall be made to appear to the selectmen that several persons are owners of several interests in the same real estate, or that one person is owner of land and another is the owner of any building, timber or wood standing thereon, or ores or minerals therein, they shall, upon request, appraise such several interests and assess the same to the several owners thereof separately. (*R. S., sec. 2, amended by laws of 1852, chap. 1291.*)

SEC. 3. The selectmen shall set down in their invoice, in separate columns, the value of improved and unimproved land; of buildings not specially designated; mills and carding machines, factories and their machinery, wharves, ferries, toll bridges, locks and canals; the value of stocks in public funds; of shares in banks and other corporations; the amount of money on hand at interest or on deposit; stock in trade; the value of carriages; the number and value of horses, asses and mules; of cows, oxen and other neat stock; and of sheep. (*R. S., sec. 3.*)

SEC. 4. In making invoice the selectmen shall set down in the column of improved and unimproved land all buildings situated on such land and owned by the owners of such lands, except such buildings as are specially designated in the third section of said chapter. [*Chap. 42 of R. S.*] (*3d sec. of this chapter.*) *Laws of 1844, chap. 142.*)

SEC. 5. The selectmen shall make such deductions from the

appraised value of the property of insane persons as they shall think just and reasonable, whenever it shall appear that the income of their estates is not sufficient to support them. (*R. S., sec. 4.*)

CHAPTER 45.

OF THE ASSESSMENT OF TAXES.

COMPILED FROM

Chapter 43 of the Revised Statutes.

" 1115, Laws of 1851.

SECTION

1. Taxes assessed upon the invoice.
2. Unimproved lands may be exempted.
3. Selectmen to assess taxes.
4. Five per cent. may be assessed above the tax.

SECTION

5. Several taxes may be included in one assessment.
6. Record of the invoice and taxes.
7. Returns to state and county treasurer.
8. Collector's list and warrant.

SECTION 1. All taxes for the year following shall be assessed upon the invoice made as aforesaid, estimating each poll one dollar and twenty cents, and taxable property at the rate of fifty cents on each hundred dollars of its appraised value. (*R. S., sec. 1, amended by laws of 1851, chap. 1115.*)

SEC. 2. Any town may at their annual meeting, an article for that purpose being inserted in the warrant, exempt unimproved lands of non-residents from any tax or part thereof.

SEC. 3. The selectmen shall seasonably assess all state and county taxes for which they shall have the warrants of the state and county treasurers respectively; all taxes duly voted in their towns; and all school and school house taxes authorized by law or by vote of any school district, duly certified to them.

SEC. 4. In assessing such taxes the selectmen may assess a sum not exceeding five per cent. more than the amount of such tax, to answer any abatements that may be made, which shall be paid into the town treasury for the use of the town.

SEC. 5. The selectmen may include in one assessment the state, county, town and school taxes, or so many of them as may be found convenient.

SEC. 6. A fair record shall be made of every invoice taken by the selectmen, and of all taxes by them assessed, in a book of records of the doings of the selectmen in their office, which shall be the property of the town; and such invoice and assessments or a copy thereof shall, prior to the first day of July, be left with the

town clerk and recorded by him ; and both of said records shall be open to the inspection of all persons.

SEC. 7. The selectmen shall seasonably make a return to the state and county treasurers of the names of the collectors of their respective towns, with the date of their warrants, with the amount they are required to pay to such treasurers respectively, and at what times.

SEC. 8. A list of all taxes by them assessed shall be made by the selectmen under their hands, with a warrant under their hands and seal directed to the collector of such town, requiring him to collect the same and to pay over to the state and county treasurer and to the selectmen or town treasurer, such sums at such times as may be therein prescribed.

CHAPTER 46.

OF THE RETURN OF INVENTORIES.

IDENTICAL WITH

Chapter 42, Laws of 1843.

SECTION

1. Selectmen to return inventories of 1843 and 1844.
2. To contain footings of each column of invoices.
3. Return to be made once in four years.
4. Penalty for neglect or refusal.

SECTION

5. Secretary of state to give information of neglect.
6. Blank returns to be furnished by secretary, and to make abstract for legislature.

SECTION 1. The selectmen of the several towns and places in this State, or a major part of them, at the charge of the town or place in which they shall belong, shall return and transmit to the office of the secretary of state, on or before the fifteenth day of May next, an entire inventory of the polls and ratable estates of the several towns and places in this State, as taken in April for the year one thousand eight hundred and forty-four, and also an entire inventory of the polls and ratable estates of the several towns and places within this State, as taken in April of the year one thousand eight hundred and forty-three.

SEC. 2. Said inventories shall contain the footings of each column of the invoices of all polls and property taxed in each of said towns and places in the month of April in each of said years, agreeably to the provisions of chapters 41 and 42 of the revised statutes, (chapters 43 and 44 of this compilation.)

SEC. 3. And every fourth year thereafterwards, the selectmen of the several towns and places in this State shall transmit and

return to the office of the secretary of state like inventories for their [the then ?] current and next preceding year, which said inventories shall be prepared in the same form and manner as is above prescribed, and shall be transmitted and returned to the office of the secretary of state, on or before the fifteenth day of May next after the time when such inventories shall be prepared as aforesaid.

SEC. 4. If the selectmen of any town or place in this State shall neglect or refuse to prepare and transmit the above mentioned inventories and returns, in the manner herein prescribed, together with their certificate, as said selectmen, to the truth of their said inventories, they shall forfeit and pay for every neglect or refusal a sum not exceeding fifty dollars nor less than twenty dollars, for the use of the town or place to which said delinquent selectmen may belong.

SEC. 5. And the secretary of state, as soon as may be after the said fifteenth day of May in each of said years, shall give information to the attorney general of all such neglects or refusals, that such selectmen may be prosecuted by indictment, information or otherwise, in any court proper to try the same: *provided*, that all prosecutions for penalties incurred by such neglect or refusal, shall be commenced within six months from the said fifteenth day of May in each of said years.

SEC. 6. It shall be the duty of the secretary of state to furnish the selectmen aforesaid with blank inventories in form as aforesaid, on or before the first day of April next, (first day of April, 1844,) and on or before the first day of April in every fourth year thereafter; and, when said inventories shall be returned as aforesaid by the selectmen, to make out an abstract of the footings or amount of the several inventories, and cause the same to be arranged by counties, and three hundred copies thereof printed and laid before the legislature at the commencement of their next session, after said inventories shall be returned as aforesaid.

CHAPTER 47.

OF THE ABATEMENT OF TAXES.

IDENTICAL WITH

Chapter 44 of the Revised Statutes.

SECTION

1. Abatement by selectmen.

SECTION

2. Abatement by court.

SECTION 1. Selectmen, for good cause shown, may abate any tax assessed by them or their predecessors.

SEC. 2. If they shall neglect or refuse, any person conceiving

himself aggrieved, having first complied with the provisions contained in sec. 4, chapter 43 of this title, may, within nine months after notice of such tax, and not afterward, apply by petition to the court of common pleas in the same county, who shall make such order thereon as justice may require.

CHAPTER 48.

OF THE COLLECTION OF TAXES OF RESIDENTS.

IDENTICAL WITH

Chapter 45 of the Revised Statutes.

SECTION

1. Collector's powers.
2. Collector to give notice of taxes.
3. Collector to give notice to corporations.
4. Distress on delinquent's goods.
5. Articles exempt from distress.
6. Notice and sale of goods distrained.
7. Account of sale given to owner.
8. Arrest for taxes, when made.
9. Copy of warrant left with jailer.
10. Collector's power, if person removes.

SECTION

11. Collector's fees.
12. Taxes against corporations, how collected.
13. Real estate holden for tax.
14. Notice of sale of real estate.
15. Sale of real estate, mode.
16. Liability of collector limited.
17. Discount may be made by towns.
18. Time of notifying, towns may direct.
19. Collector's deputies, when appointed.

SECTION 1. Every collector, in the collection of taxes committed to him to collect, and in the service of his warrant, shall have the powers of law vested in constables in the service of civil process, which shall continue until all the taxes in his list are collected.

SEC. 2. The collector shall give notice of such tax to every person taxed, or leave a notice thereof in writing at his usual place of abode, fourteen days at least before he shall distress therefor, unless in cases where he has reason to believe such person is about to remove from town.

SEC. 3. The collector shall give the same notice, in writing, of all taxes assessed against any corporation, to the cashier, treasurer or some principal officer of such corporation.

SEC. 4. Upon neglect or refusal of any person or corporation to pay the taxes assessed on them, the collector may distress the goods and chattels of such person or corporation.

SEC. 5. No distress shall be made of any person's tools or implements necessary for his trade or occupation, nor of his arms or utensils of household necessary for upholding life, nor of bedding or apparel necessary for him or his family.

SEC. 6. The collector shall keep the property distrained four days at the cost of the owner. If the tax, cost and charges are

not then paid, he shall post up in two or more public places in the town where the sale is to be, twenty-four hours before the time of sale, a notice of the place, day and hour of sale, with a particular description of the property to be sold, and at the time and place appointed, which shall be in the town where the distress is made, between the hours of ten in the forenoon and six in the afternoon, and within forty-eight hours after the expiration of said four days, shall sell the same at public auction to the highest bidder.

SEC. 7. A particular account in writing of the taxes of the delinquent, the collector's fees, and the charges of keeping and sale; and the amount of sale of each article, with the overplus, if any, after deducting said taxes and charges, shall be delivered immediately upon such sale to the owner, or be ready to be delivered to him upon request.

SEC. 8. For want of goods and chattels whereon to make distress, the collector may take the body of any person neglecting or refusing to pay the tax assessed against him, and commit him to the common jail.

SEC. 9. In such case the collector shall give to the jailer an attested copy of his warrant, and thereupon certify the sums such person is taxed in his list, and that he has taken his body for want of goods and chattels whereon to make distress; and the jailer shall receive and detain such person in his custody until he pays such tax, costs of commitment and charges of imprisonment, or be otherwise discharged thereof by due course of law.

SEC. 10. In case of removal from town or of an assessment upon the personal property of non-residents, the collector may distress the property, or arrest the body of any person named in his list, wherever such person or his property may be found.

SEC. 11. Collectors shall be entitled to the same fees for the collection of taxes by distress and sale, or for arresting or committing any person to jail, as sheriffs are entitled to receive for like services upon civil process.

SEC. 12. The real and personal property of corporations shall be liable to be taken and sold for taxes in the same manner as the property of individuals; and the franchise of taking toll may be taken and sold for taxes in the same manner as the same may be sold on execution.

SEC. 13. The real estate of every person or corporation against whom any tax may be assessed, shall be holden for such tax for one year from the first day of June following, and may be sold by the collector in case such person shall die or remove from town and leave there no personal estate on which distress can be made, or in case such person or corporation shall neglect or refuse to expose goods and chattels whereon distress may be made.

SEC. 14. The collector shall give notice of such sale by posting up advertisements thereof in two or more public places in the town, at least six weeks before the sale, in which shall be stated the name of the owner or of the person to whom the same was taxed,

and also the name of the occupant, if any, at the time of posting such notice, the amount of the tax, and the place, day and hour of the sale.

SEC. 15. The powers and duties of the collector in relation to such sale; the time, place and manner of the same; the powers and duties of the collector and town clerk in relation to the proceedings subsequent thereto; the fees of the collector and town clerk, and the rights of the owner in relation to the redemption thereof; shall be the same as are prescribed by the law relating to the sale of the estates of non-residents.

SEC. 16. No person to whom any list of taxes shall be committed for collection shall be liable to any suit or action by reason of any irregularity or illegality of the proceedings of the town or of the selectmen, nor for any cause whatever except his own official misconduct.

SEC. 17. Any town may by vote at the annual meeting, direct a discount to be made to those persons who shall pay their taxes within such periods as the town may limit, and every person so paying shall be entitled to such discount.

SEC. 18. Any town may by such vote direct the time at which notice shall be given to persons whose taxes shall be then unpaid, of the amount of the same; and if the same shall not be paid, with twenty cents for such notice, within fourteen days thereafter, the collector may distrain for the same.

SEC. 19. Any collector being authorized by vote of the town, may appoint deputies who shall be sworn, shall give bond to the satisfaction of the selectmen and shall have the powers of collectors, and may be removed at the pleasure of the collector.

CHAPTER 49.

OF THE COLLECTION OF TAXES OF NON-RESIDENTS.

COMPILED FROM

Chapter 46 of the Revised Statutes.

“ 495, Laws of 1847.

“ 1125, “ “ 1851.

SECTION

1. List of non-resident taxes.
2. Copy delivered to the deputy secretary.
3. Deputy secretary to receive taxes.
4. Deputy secretary to return copy.
5. Deputy secretary shall retain copy of list.
6. Collector to advertise sale.

SECTION

7. Form of advertisement.
8. Advertisement to be posted.
9. Time and place of sale.
10. Collector to make return to town clerk of the sale.
11. Owner may redeem.
12. Purchaser may pay subsequent tax.
13. Collector to give receipt.

SECTION	SECTION
14. Money tendered left with town clerk in certain cases.	18. Non-residents may work out highway tax.
15. Persons interested may redeem their share.	19. Collector's fees.
16. Collector to leave list of lands redeemed, with town clerk.	20. Collector's fees to be divided.
17. Form of collector's deed.	21. Penalty for taking greater fees.
	22. Sale of buildings and timber.

SECTION 1. A list of the taxes assessed on the real estate of persons not resident in the town, shall be made by the selectmen, under their hands, in which shall be inserted the name of the owner, if known, otherwise the name of the original owner, if known, the number of the lot and range, if lotted, otherwise such description as the land may be readily known by; the number of acres, and the amount of taxes assessed thereon. (*R. S., chap. 46, sec. 1.*)

SEC. 2. Such list shall be delivered to the collector on or before the thirtieth day of May, and the collector shall on or before the eighth day of the next session of the general court in June deliver a certified copy of his list to the deputy secretary who shall certify thereon the time of its receipt. (*R. S., chap. 46, sec. 2.*)

SEC. 3. The deputy secretary shall keep such copy at Concord till the first day of September following, for the inspection of all concerned, and shall receive the tax on any tract, with ten per cent. thereon for his services, and give a receipt therefor. (*R. S., chap. 46, sec. 3.*)

SEC. 4. The deputy secretary at any time after the first day of September, on application, shall return the said copy to the collector, with a certificate of the taxes by him received, and shall pay to the collector the amount, taking his receipt therefor. (*R. S., chap. 46, sec. 4.*)

SEC. 5. Whenever a copy of the list of non-resident taxes shall be returned to the collector as provided in section four of chapter 46 of the revised statutes, [sec. 4, of this chapter,] the deputy secretary shall retain in his office a certified copy of the same and of the payments made to him thereon, and the amount actually paid to him for making such copy by the collector, may be charged by the collector with the other costs. (*Laws of 1847, chap. 495.*)

SEC. 6. The collector, after receiving from the deputy secretary said copy and certificate, shall advertise the land on which the taxes have not been paid, for sale, in the New Hampshire Patriot and State Gazette printed at Concord, and also in some newspaper printed in the county where the land is situate, if any, otherwise in some adjacent county. (*R. S., chap. 46, sec. 5.*)

SEC. 7. The advertisement shall contain the same name, same description of the land taxed and amount of tax, which is inserted in the collector's list, and the time and the place of sale; and shall be published three weeks successively, commencing at least eight weeks before the sale. (*R. S., chap. 46, sec. 6.*)

SEC. 8. A similar advertisement shall be posted up at some public place in the town where the lands lie, during the same period. (*R. S., chap. 46, sec. 7.*)

SEC. 9. Every such sale shall be at auction, in some public place, in the town or place where the land is situate, and between the hours of ten in the forenoon and six in the afternoon, and shall be so much of the owner's estate as will pay the taxes and incidental charges; but, if necessary, the sale may be adjourned from day to day, not exceeding three days, by proclamation made at the place of sale within the hours aforesaid. (*R. S., chap. 46, sec. 8.*)

SEC. 10. The collector shall, within ten days after any sale, deliver to the town clerk an account of the sales with the charges of sale, under oath; copies of the newspapers in which the advertisement was published, and the advertisement posted up, with an affidavit that it was so posted up, which shall be kept on file; and the said account, advertisement and affidavit shall be recorded by the town clerk, and a certified copy of such record shall be competent evidence. (*R. S., chap. 46, sec. 9.*)

SEC. 11. Every person interested in any land sold as aforesaid, may redeem the same by paying or tendering to the collector or his administrator, or in his absence, at his usual place of abode, the amount for which the land was sold, with twelve per cent. interest thereon from the sale to the time of payment or tender. (*R. S., chap. 46, sec. 10.*)

SEC. 12. The purchaser of non-resident lands sold at auction for taxes may, at any time after the collector shall have received his list from the deputy secretary, pay to such collector any tax assessed upon said land subsequent to that for which it shall have been sold; and any person claiming the right to redeem said land, shall, to redeem the same, pay to the collector who sold the same, in addition to the amount for which said land was sold, with the interest thereon as prescribed by law, the sum so paid for said subsequent tax with simple interest thereon; *provided*, said purchaser shall have left with the collector of whom said land was purchased, the receipt of the collector to whom such subsequent tax may have been paid, for the same, to be delivered to the person redeeming said lands. (*Laws of 1851, chap. 1125.*)

SEC. 13. Upon such payment or tender the collector or his administrator shall give a receipt therefor, and shall pay over the money so paid or tendered, to the purchaser upon demand. (*R. S., chap. 46, sec. 11.*)

SEC. 14. In case a tender shall be made in the absence of the collector or his administrator, at his house, the party tendering shall, before the time of redemption expires, leave the money so tendered with the town clerk for the use of such collector, with a notice of such tender, which shall be forthwith recorded by said town clerk, who shall give a receipt for the same, and shall be paid

by the person making such tender, as his fees, ten per cent. upon the amount so tendered. (*R. S., chap. 46, sec. 12.*)

SEC. 15. Every person interested with others in any lot or tract of land, may pay his proportion of the tax, and the residue only shall be sold; or he may redeem his share of the land when sold, by paying his proportion of the tax, cost and interest. (*R. S., chap. 46, sec. 13.*)

SEC. 16. Within ten days after the time of redemption shall expire, the collector shall leave with the town clerk, to be recorded, a correct list of the lands so redeemed. (*R. S., chap. 46, sec. 14.*)

SEC. 17. The collector, if living, otherwise his administrator, shall, at the end of one year from the sale, execute to the purchaser or his heirs a deed of the land so sold and not redeemed, which shall be substantially in the following form :

Know all men by these presents that I, _____, collector of taxes for the town of _____, in the county of _____ and State of New Hampshire, for the year 18____, by the authority in me vested by the laws of the State, and in consideration of _____, to me paid by _____, do hereby sell and convey to him, the said _____, his heirs and assigns, (here describe the land sold) to have and to hold the said premises with the appurtenances to him _____, his heirs and assigns forever. And I do hereby covenant with said _____, that in making sale of the same I have in all things complied with the law, and that I have good right, as far as that right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid.

In witness whereof I have hereunto set my hand and seal, the day of _____, A. D.

Signed, sealed and delivered in presence of, (*R. S., chap. 46, sec. 15.*)

SEC. 18. Every non-resident shall have the right at any time between the first day of June and the twentieth day of July, to pay any highway tax assessed on his land, in labor, under the direction of such surveyor of highways, or other proper person, as the selectmen may designate; and such selectmen or surveyors shall give to such non-resident a certificate of the amount of such labor, which shall be received by the collector and by the town clerk in payment of such tax. (*R. S., chap. 46, sec. 16.*)

SEC. 19. The fees of collectors shall be as follows: for travel to the deputy secretary for the copy of his list, thence to the places where the advertisements for the sale are to be printed, and returning home, five cents per mile; for advertising in the newspapers and in town, one dollar; for making the sale, one dollar a day, and the same sum for a clerk; for each deed made to a purchaser, twenty-five cents; and the sums actually paid the printers, not exceeding one dollar a square for three insertions, shall be a legal charge. (*R. S., chap. 46, sec. 17.*)

SEC. 20. The collector shall make out an equal proportion of his fees and charges, and of the sums paid to printers, to each lot or tract of land advertised or sold as aforesaid; and no person shall be holden to pay any more costs than his just proportion of those incurred at the time of the payment of his tax. (*R. S., chap. 46, sec. 18.*)

SEC. 21. If any collector shall demand or take any other or greater fees than are by law allowed for any of the services by him rendered, he shall forfeit five dollars to the person suing therefor. (*R. S., chap. 46, sec. 19.*)

SEC. 22. Any separate interest in land and any buildings, timber or wood, standing or growing on land owned by another person, shall be taken to be real estate, within the meaning of this and the preceding chapter. (*R. S., chap. 46, sec. 20.*)

CHAPTER 50.

OF THE COLLECTION OF TAXES BY THE SHERIFFS.

IDENTICAL WITH

Chapter 47 of the Revised Statutes.

SECTION

1. Treasurer may assess, in what cases.
2. Assessments, how made.
3. Sheriff to collect such tax.
4. Manner of collecting.
5. Sales of land, how made.

SECTION

6. Returns, how made.
7. Lists and papers, where filed.
8. Copies, when evidence.
9. Extents against sheriffs.

SECTION 1. When any unincorporated place shall not elect proper officers for assessing and collecting taxes, or when the name of the collector of taxes of any such place is not returned to the state or county treasurer on or before the last day of December in any year, such treasurer shall assess the tax apportioned to such place thereon.

SEC. 2. If such treasurer shall be notified by the clerk of the proprietors that such place is divided, and a copy of the division thereof furnished to him on or before the last day of December in each year, he shall assess such tax upon the original owners, according to their several interests in quantity, without regard to the quality of their lands; otherwise he shall assess such tax in one sum.

SEC. 3. Such treasurer shall commit such tax to the sheriff of the county in which said place lies, with a warrant under his hand and seal, to collect the same; and such sheriff shall have the same powers and shall be subject to the same liabilities, with respect to

the collection of such tax, as collectors of taxes with respect to lands of non-residents.

SEC. 4. Such sheriff shall proceed in the same manner in relation to such taxes and the sale of lands therefor as such collectors are by law bound to do.

SEC. 5. Every sale of lands for such taxes shall be in the nearest town in the same county in which the court of common pleas is holden; and such sale shall be advertised therein, as well as in the place where the lands lie.

SEC. 6. The sheriff shall make all such returns as collectors are required to make to town clerks, to the clerk of the court of common pleas for the county in which such lands are situate.

SEC. 7. Every sheriff and person who has heretofore held the office of sheriff, shall deposit with the clerk of said court all lists and other papers containing evidence of his proceedings in the sale of lands for taxes, and the same shall be there filed and preserved.

SEC. 8. Copies and extracts of such papers, certified by such clerk, shall be competent evidence in every case where the originals might be used.

SEC. 9. Every state and county treasurer shall have like remedy against any sheriff by extent, as he has by law against collectors.

CHAPTER 51.

OF EXTENTS.

IDENTICAL WITH

Chapter 48 of the Revised Statutes.

SECTION

1. Extents, who may issue.
2. Against towns for neglects.
3. Against selectmen.
4. Against collectors.
5. Against collectors absconding.
6. Treasurers not to issue, in what cases.
7. Extents against towns, no property being found.
8. Personal property, how sold.

SECTION

9. Real estate, how sold.
10. Direction and return of extents.
11. Alias extents issued.
12. Fees may be included in extents.
13. Remedy for contribution.
14. Remedy against selectmen.
15. Remedy against collector.
16. Collector to be indemnified.
17. Remedy of selectmen.

SECTION 1. The state treasurer, and each county and town treasurer, may issue extents under their hands and seals respectively, in cases authorized by law; and such extents shall be deemed to be executions against the person and property, within the laws of this State relating to the levy of executions.

SEC. 2. Any town which shall neglect to choose proper officers for assessing and collecting taxes, shall be liable to an extent for state and county taxes; and the same may be levied upon the property of any inhabitant or owner of property therein, if no estate of such town be found whereon to levy the same.

SEC. 3. Selectmen who shall neglect to assess any tax for which they have the warrant of the state or county treasurer, at the time and in the manner legally prescribed therein, or who shall neglect to return to either of such treasurers, or to the town treasurer, the name of the collector to whom they shall commit any tax assessed by them and payable to such treasurers respectively, shall be liable to an extent.

SEC. 4. Any collector to whom any tax may be committed, who shall neglect to pay the same to the state, county or town treasurer, or to the selectmen or other person to whom the same is payable, within the time limited in his warrant, which shall not be less than three months from the delivery of such warrant, except in cases where a shorter time shall be limited by law, shall be liable to an extent.

SEC. 5. If any collector of taxes to whom any taxes payable to the state or county treasurer is committed, shall neglect to pay the same within the time limited in his warrant, and the selectmen of the town shall judge that there is danger that such collector will abscond or be unable to pay the same, they may issue an extent against such collector for the taxes in arrear.

SEC. 6. No extent shall be issued by the state or county treasurer against any collector, after notice given by the selectmen that they have issued an extent against him as aforesaid; but if such tax shall not be paid within three months from the time the same became payable, an extent shall be issued against such selectmen.

SEC. 7. In every case where an extent shall be issued against any selectmen or collector by the state or county treasurer, and sufficient property of such selectmen or collector shall not be found whereon to levy the same, an extent shall be issued against the town, which may be levied upon the property of any inhabitant or owner of property therein, if no estate of such town be found whereon to levy the same.

SEC. 8. Personal property seized upon any extent shall be sold in the same manner as similar property is by law required to be sold on execution.

SEC. 9. Real estate of every kind so levied upon shall be sold, and a deed and return thereof made, in the manner provided by law for the sale of the equity of redemption of real estate subject to any mortgage; and the owner thereof shall have the same right to redeem the same.

SEC. 10. Extents shall be directed to the sheriff or his deputy of the county where they are to be executed, and shall be made returnable to the officer issuing the same, at a certain day named

therein, which shall not be less than sixty days from the date thereof.

SEC. 11. If any extent shall be returned unsatisfied, further or alias extents may be issued for any sum which may remain due upon such return.

SEC. 12. Every extent may include the legal fees and charges incurred upon any former extent issued for the collection of the same tax.

SEC. 13. Every person upon whose property an extent against any town has been levied, shall have contribution against the other inhabitants or owners of property therein for the sums so levied, and for damages, and shall recover double costs.

SEC. 14. Towns shall have their remedy by action against any selectman or collector through whose default any extent may have issued, for all sums levied thereon, and for damages and double costs.

SEC. 15. Selectmen shall have their remedy by action against any collector through whose default any extent shall have issued against them, for all sums levied thereon, and for damages and double costs.

SEC. 16. Selectmen issuing any extent against a collector, shall indemnify him against all costs and expenses arising to him by reason of any extent issued against him by the state or county treasurer for the same tax.

SEC. 17. Selectmen shall have no remedy against any town for any sum levied upon any extent issued against them on their own default, except the amount of tax, without any costs of levying or costs of suit.

TITLE IX.

OF HIGHWAYS, BRIDGES AND FERRIES.

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- CHAPTER 52. Of the powers of selectmen in relation to laying out highways.
- CHAPTER 53. Of the powers of the court of common pleas.
- CHAPTER 54. Of the powers of the road commissioners.
- CHAPTER 55. Of the power of the road commissioners to apportion expense in certain cases.
- CHAPTER 56. Of the payment of damages and costs.
- CHAPTER 57. Of neglect of towns to make and repair highways.
- CHAPTER 58. Of the discontinuance of highways.
- CHAPTER 59. Of repairing highways in towns.
- CHAPTER 60. Of making and repairing highways not in any town.
- CHAPTER 61. Of damages from defect of highways.
- CHAPTER 62. Of injuries to highways.
- CHAPTER 63. Of incumbrances in highways.
- CHAPTER 64. Of encroachment on highways.
- CHAPTER 65. Of bridges.
- CHAPTER 66. Of guide posts.
- CHAPTER 67. Of turning to the right.
- CHAPTER 68. Of ferries.
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CHAPTER 52.

OF THE POWERS OF SELECTMEN TO LAY OUT HIGHWAYS.

COMPILED FROM

Chapter 49 of the Revised Statutes.

" 742, Laws of 1848.

" 725, " " 1848.

" 957, " " 1850.

SECTION

1. Powers of selectmen to lay out.
2. Notice of hearing to be given.
3. Notice to residents, how given.
4. To minors, &c., how given.
5. To tenants and reversioners.
6. Notice by publication.
7. Examination and hearing.

SECTION

8. Not restricted by petition.
9. May lay out over highways.
10. Across rivers above tide.
11. Franchises may be taken.
12. Road commissioners may cause gates or bars to be erected across private ways.

SECTION

13. Private ways, gates erected.
14. Gates removed, when.
15. Return to be made.
16. Damages to be assessed.
17. Damages, if owner unknown.

SECTION

18. Town liable for damage.
19. Selectmen, duty of, on application of owner.
20. Appeal to court of common pleas.

SECTION 1. Selectmen upon petition are authorized to lay out any new highway, or to widen and straighten any existing highway within their town for which there shall be occasion, either for the accommodation of the public or of the person applying.

SEC. 2. Unless the selectmen shall be clearly of the opinion that the petition ought not to be granted, they shall appoint a time and place of hearing and shall cause notice thereof in writing to be given to the first petitioner and to the owners of the land over which the same may pass, fourteen days previous thereto.

SEC. 3. Such notice shall be given to each owner in person or left at his usual place of abode, if he is known and resides in the State, otherwise to the person, if any, who has the care or possession of the land.

SEC. 4. If the owner is a person under guardianship, notice shall be given in the same manner to his guardian. If such owner is a minor or a person under any legal disability, the judge of probate may appoint a guardian for such person to whom notice shall be given.

SEC. 5. Tenants for life or years and the owners of the remainder or reversion, shall each be separately notified as aforesaid.

SEC. 6. Upon affidavit of one of the petitioners that the owner of any land over which such road may pass, or his residence, is unknown or uncertain, such notice may be published three weeks successively in some newspaper printed in the vicinity, which shall be sufficient notice.

SEC. 7. At the time and place so appointed, the selectmen shall make a personal examination of the several routes proposed, and of the highways for which such new highway is designed to be a substitute, shall hear all parties interested who may attend, and any evidence they may offer, and may adjourn as they see cause.

SEC. 8. Such selectmen may lay out such new road over any ground they may deem most suitable, and widen and straighten any highway as they judge proper, without regard to any intermediate limits or particular amendments described in the petition.

SEC. 9. Upon any petition for any new highway they may lay out the same across or over any existing highway; but no damages shall be awarded when the public have the same right of way, except for additional land taken.

SEC. 10. Highways may be laid out across any river or stream, except navigable tide waters; but no road or bridge shall be so constructed as to prevent the use of such stream or river for boats or rafts, and for running timber.

SEC. 11. Any real estate, franchise or easement of any corporation may be taken for a highway in the same manner as the real estate of individuals.

SEC. 12. Whenever the selectmen of any town or place or the road commissioners for any county in this State shall lay out any highway for the accommodation of an individual, they are authorized and empowered to lay the same out subject to the erection and maintenance of such gates or bars across the same as they may deem expedient and compatible with the interest of all concerned. (*Laws of 1848, chap. 742.*)

SEC. 13. Whenever the selectmen shall hereafter lay out a new highway or road for the use and accommodation of an individual, they may and shall, if they deem it proper and expedient in the case, lay out such road subject to the erection and maintenance of such gates across the same as they shall judge expedient and necessary; said gates to be erected and maintained at the expense of the person or persons for whose benefit the said road is laid out, as the selectmen shall order. (*Laws of 1850, chap. 957, sec. 1.*)

SEC. 14. Whenever in the judgment of the selectmen such gates shall become unnecessary, improper or inexpedient, by reason of the impediment thereof to the use of the roads, they may and shall, on petition therefor, after notice and time of hearing thereon given the person and parties interested, cause said gates to be taken away, and lay out such roads as open and free highways as in other cases, and assess such further damages to the land owners as they shall judge right and proper in the premises. (*Laws of 1850, chap. 957, sec. 2.*)

SEC. 15. The selectmen shall within thirty days make a return of every highway by them laid out, describing the same and the width thereof, and a like return of the alterations by them made in existing highways, with a particular description thereof, and cause the same to be recorded by the town clerk. (*R. S., sec. 12.*)

SEC. 16. Such selectmen shall assess the damages sustained by each owner of the land required for such highway, and insert the same in their return. Those of the tenant and remainder-man or reversioner shall be assessed separately. (*R. S., sec. 13.*)

SEC. 17. If the person to whom any damages should be awarded, is unknown, a particular description of the land, real estate or franchise taken for any highway, shall be inserted in the return of the selectmen, with the damages assessed to the owner, without naming any person. (*R. S., sec. 14.*)

SEC. 18. Where the selectmen, or any surveyor of highways appointed by them, or by the town, or any person acting under them, shall make, or cause to be made any alteration in any street or highway, by raising or lowering the same or making a ditch on the side thereof, whereby any dwelling house or other building, or any land adjoining, may be injured, the town shall be liable to pay the damages occasioned by such alteration. (*Laws of 1848, chap. 725, sec. 1.*)

SEC. 19. The owner or owners of such house, building or land, may apply in writing to the selectmen to assess the damages sustained by them, and it shall be the duty of the selectmen to appoint a time, notify the applicant, view the premises and assess the damages in the same manner as is provided, in chapter forty-ninth of the revised statutes (this chapter) in case of laying out highways, and shall, within thirty days from the time of receiving said application, file the same, with their doings thereon, with the town clerk, who shall record the same. (*Laws of 1848, chap. 725, sec. 2.*)

SEC. 20. Any person so applying, who may think himself aggrieved by the assessment of damages made by said selectmen, or if said selectmen shall neglect for thirty days from the time of such application to assess said damages, may petition the court of common pleas for redress in the same manner as is provided in the ninth section of chapter fifty of the revised statutes, (*sec. 9 of chap. 53 of this compilation,*) and the same proceedings shall be had as are therein provided. (*Laws of 1848, chap. 725, sec. 3.*)

CHAPTER 53.

OF THE POWERS OF THE COURT OF COMMON PLEAS IN RELATION TO THE LAYING OUT OF HIGHWAYS.

COMPILED FROM

Chapter 50 of the Revised Statutes.

" 353, Laws of 1846.

" 996, " " 1850.

SECTION

1. Court of common pleas may lay out, when.
2. Notice to towns, how given.
3. Notice to owners of land not in any town, how given.
4. Referred to road commissioners.
5. Referred to road commissioners of several counties, when.

SECTION

6. Commissioner when interested, proceedings.
7. Report recommitted or accepted.
8. Committees, in what cases.
9. Increase of damages, petition for, on return of selectmen.
10. Increase of damages, on report.

SECTION 1. Petitions relative to roads may be presented to the court of common pleas in term time, or to the clerk in vacation, in the following cases:

1. Whenever the selectmen shall neglect or refuse to lay out or to widen and straighten a highway in their town;
2. When there shall be occasion to lay out a highway over land not in any town;

3. When there shall be occasion to lay out or widen and straighten a highway over lands in two or more towns, one of which is in the county where the petition is presented ;

4. Whenever any town shall discontinue any highway laid out by the selectmen within two years from the time of such laying out.

SEC. 2. Upon the filing of such petition with the clerk of the court in vacation, or with the court in term time, the clerk shall issue an order of notice to one of the petitioners, with a copy of said petition, returnable to the next term of the court, and said petitioners shall cause a certified copy of the same to be given to or left at the usual places of abode of one of the selectmen and the town clerk of each of the towns through which such road may pass, thirty days before the next term of said court.

SEC. 3. If such proposed highway may pass over lands not in any town, the court shall order notice to be given to the owner thereof, if known and residing within the State, by giving to him or leaving at his usual place of abode a like copy ; and if he or his residence is not known or is uncertain, or if his residence is not within the State, by publishing such copy in some newspaper printed in the vicinity, three weeks successively, the last publication thereof to be thirty days before such court.

SEC. 4. If no sufficient objection shall be made, all petitions relating to roads shall be referred to the road commissioners of the county, except where the proposed highway shall pass over lands in two or more counties.

SEC. 5. In such cases the petition shall be referred to the road commissioners for all such counties, and they shall constitute a joint board ; a copy of such petition and of the order of reference shall be furnished to the road commissioners of each county, and they shall make a joint report to the court of common pleas in each county.

SEC. 6. If any commissioner or commissioners are interested in any such petition, he or they shall not serve, but the vacancy or vacancies shall be filled by the court of common pleas in which such petition is pending, or by any judge of the superior court, or by any judge of the court of common pleas in the county in which the proposed road is situate, in vacation. (*Laws of 1846, chap. 353 as amended by laws of 1850, chap. 996.*)

SEC. 7. Any report of the road commissioners may for good cause be recommitted to such road commissioners, or the same may be accepted and judgment rendered thereon, establishing so much of the highway laid out as is within the county in which the said report is made, and no more.

SEC. 8. The road commissioners shall continue in office as to all proceedings commenced or pending before them, until the same shall be completed, unless the court for good cause shown shall refer the same to the road commissioners for the time being.

SEC. 9. If any person shall think himself aggrieved by the

assessment of damages made by the selectmen, he may within one year after such road is opened, petition the court of common pleas for redress; and the said court after due notice to the town and others interested, may award such damages as may be just, and costs to either of the parties in their discretion, and issue execution therefor.

SEC. 10. Any person, who had no actual notice of the laying out or altering of any highway, may within one year after the same shall be opened and made, apply to the said court as provided in the preceding section, and the court after notice as aforesaid shall award damages and costs and issue execution therefor, as is therein provided.

CHAPTER 54.

OF THE POWERS OF THE ROAD COMMISSIONERS.

COMPILED FROM

Chapter 51 of the Revised Statutes.
" 1099, Laws of 1851.

SECTION

1. Hearing to be appointed.
2. Notice thereof to be given.
3. Examination and hearing.
4. Report made in each county.
5. Notice given to be certified; error in report may be amended.
6. Highway to be described.

SECTION

7. Damages assessed and certified.
8. Appeal, when and how allowed.
9. Grade may be prescribed.
10. Highway across rivers; boundary line to be established.
11. Compensation of commissioners.

SECTION 1. The road commissioners, on every petition referred to them, shall appoint a time and place at which they will commence the discharge of their duties thereon.

SEC. 2. They shall give notice to the selectmen of each town in which the highway to which such petition relates, is or may pass, and to the owners of land, in the same manner as selectmen are required to give such notice to owners of land; and in case any one of the commissioners shall be unable to attend agreeably to notice at the time and place of hearing, the two commissioners who do attend may appoint some suitable person to act in his stead.

SEC. 3. They shall make examination and hear all parties interested, in the same manner as selectmen are required to do, and shall have like powers.

SEC. 4. They shall make report to the court in each county

in which any highway laid out, altered or discontinued by them, shall pass.

SEC. 5. In such report, they shall certify the names of the several owners of land taken for such road, to whom notice was given personally or left at their usual places of abode respectively, and in what manner notice was given to other like owners and to selectmen of towns. In case the owners of land have had a legal notice and the commissioners return a wrong name in their report, the court on satisfactory evidence of the error may alter or amend the same.

SEC. 6. A particular description of the new highway laid out, and its width, and of any alterations made in any highway already established, shall be inserted in such report, with their estimate of the expense of building or making the same.

SEC. 7. The road commissioners shall assess the damages sustained by owners of land, as selectmen are required to do, and insert the same in their report, stating such damages in each town separately; and shall certify the damages awarded to such owners in each town, to the town clerk thereof, fourteen days before the sitting of the court to which their report is returnable.

SEC. 8. If any such owner shall be dissatisfied with the amount of damages awarded him by the commissioners under the preceding section, he may appeal to the court of common pleas next to be holden in the county and not afterwards, and thereupon said court shall assess his damages by a jury; and if he recover a greater sum than that allowed by the commissioners, he shall have full costs against the town; if an equal or less sum, he shall pay costs.

SEC. 9. The road commissioners may prescribe in their report the grade or rise and fall to the road, of any highway by them laid out, or of any existing highway for which a proposed highway not laid out might be a substitute; and their report being accepted, if any town shall neglect to make such highway in conformity thereto, such town may be indicted and fined as for neglect to make or repair highways.

SEC. 10. Whenever a new highway from one town to another shall be laid out by the road commissioners over any river or other stream of water constituting the boundary line between said towns, and it shall be necessary, in the opinion of said commissioners, to construct said highway across said river or other stream by bridging, the said road commissioners shall determine the points in the side lines of said highway where the same cross the said boundary line, and shall, in their report laying out said highway, establish and describe the same by reference to monuments on the shore of said river or other stream, or in some other definite manner so as that said points may be readily ascertained and known; and the report of said commissioners being accepted and judgment rendered thereon, the line across said highway between said points shall, for all purposes connected with and relating to said highway,

be deemed and taken to be the true boundary line between said towns at that place. (*Laws of 1851, chap. 1099.*)

SEC. 11. Each road commissioner shall be allowed in each case in full for his services and expenses, ten cents a mile for actual travel each way and two dollars a day for the time necessarily spent in making the examination and report, excluding the time of travelling to and from the place of examination; and in case there shall be more than one road to examine in any town at the same time, but one travel shall be allowed.

CHAPTER 55.

OF POWER OF ROAD COMMISSIONERS TO APPORTION EXPENSE IN CERTAIN CASES.

IDENTICAL WITH
Chapter 958, Laws of 1850.

SECTION

1. Commissioners may apportion part of expense of constructing roads to other towns.
2. Towns liable for neglect to comply with report.

SECTION

3. Towns may raise money by taxation or otherwise to pay apportioned expense.

SECTION 1. Whenever, upon any petition referred to them, the road commissioners for any county or counties in this State shall be of opinion that the road prayed for, or any portion thereof, is demanded for the public accommodation, and shall lay out the same, if in their opinion the town or towns through which the same passes would be excessively burdened by defraying the whole expenses of constructing the same, said commissioners shall make examination of all the circumstances relating to such road, its public utility, the expense of its construction, the ability of such town or towns to bear the expense, and the benefit to such town or towns and any other towns in the vicinity, from the construction thereof; and if upon such examination said commissioners shall be of opinion that the town or towns through which the proposed road passes would be excessively burdened by defraying all the expenses of its construction; and that any other town or towns in the vicinity, in the county or counties through which said road passes, would be greatly benefitted by its construction, they shall give notice as in other cases to such other town or towns as in their opinion would be thus greatly benefitted, of the time and place when and where they may be heard in the premises; and if upon such hearing said commissioners shall be of opinion that

such town or towns ought to bear any portion of the expenses of constructing such road, they shall, in their report laying out the same, apportion such part of said expenses as they shall deem just and reasonable, to such town or towns in the county or counties through which said road passes as will in their judgment be greatly benefitted by its construction, to be borne by such town or towns; and any such report of said commissioners being accepted and judgment rendered thereon, shall be final and conclusive, and execution issue accordingly.

SEC. 2. Any town or towns other than the town or towns through which the same passes, that may have been directed, in any report of the road commissioners upon which judgment shall have been rendered, to defray any portion of the expense of laying out and building any road as aforesaid, shall be liable for neglecting to comply with its requirements in the same way and manner as the towns through which the same passes are or may be by law liable for neglecting to build the same.

SEC. 3. Any town may raise money by taxation or otherwise for the purpose of paying the proportion of the expense of laying out and building any road in any other town, ordered by the road commissioners to be paid by such town.

CHAPTER 56.

OF THE PAYMENT OF DAMAGES OCCASIONED BY LAYING OUT HIGHWAYS.

IDENTICAL WITH

Chapter 52 of the Revised Statutes.

SECTION

1. Damages paid before road made.
2. What cases are excepted.
3. Damages recovered by action.
4. Action must be brought, when.
5. Damages recovered, how much.

SECTION

6. Execution issued therefor, when.
7. Damages, by whom paid.
8. County may pay part, and when.
9. Costs paid by county, when.
10. Costs paid by towns, when.

SECTION 1. No new highway or alteration in any highway shall be made by any town until the damages awarded to the owners of land or other estate taken therefor shall be paid, except in cases provided by law.

SEC. 2. If the owner of such land or real estate is a minor or insane and has no guardian, or resides out of the State, or is unknown, such new highway or alteration may be made without tender or payment of their damages.

SEC. 3. If any highway or alteration therein shall be laid out

and established, any person to whom any damages shall be awarded, may recover the same with interest from the person or town liable to pay the same, in case the same shall not be paid to him within thirty days after the same shall be demanded.

SEC. 4. All actions to recover damages awarded for lands taken for highways which may be discontinued, shall be brought within six months from the time of such discontinuance, and not afterwards.

SEC. 5. In actions for the recovery of damages for lands taken for highways, only the amount of the actual loss or damage sustained shall be recovered, in case such highway has been discontinued.

SEC. 6. If a fine shall be imposed upon any town for not making or altering any highway, and an agent shall be appointed to superintend the making thereof, the court on motion may issue execution against such town for the damages awarded to any land owner, and such highway may be made or altered without payment or tender thereof.

SEC. 7. The damages assessed upon the laying out of any highway for the accommodation of individuals shall be paid by them. Those assessed upon the laying out or altering of any highway for the accommodation of the public, shall be paid by the town in which the land taken for such highway shall lie.

SEC. 8. The court of common pleas, if they deem the expense of laying out any new highway, paying the damages and building the same unjustly burdensome to any town, may order a part, not exceeding one half such expense, to be paid by the county; and may draw an order on the county treasurer in favor of such town therefor.

SEC. 9. The costs of laying out and of widening and straightening highways from town to town, or through land not in any town, shall be paid by the county.

SEC. 10. The costs of laying out and of widening and straightening any highway in any town, shall be paid by the town, except such part thereof as the court of common pleas may order to be paid by the county.

CHAPTER 57.

OF THE NEGLECT OF TOWNS TO MAKE AND REPAIR HIGHWAYS.

IDENTICAL WITH

Chapter 53 of the Revised Statutes.

SECTION

1. Towns may be fined, when.
2. Notice to town, how given.
3. Fine, how assessed.
4. Fees of witnesses, when taxed.

SECTION

5. Fines, how collected and paid.
6. Agent to expend the fine.
7. No way public, unless laid out legally or used twenty years.

SECTION 1. Fines shall be imposed upon towns for neglect to make or repair highways in the following cases:

1. If any town shall unreasonably neglect to make and put in good repair any new highway laid out therein.

2. If any town shall unreasonably neglect to alter and put in good repair any highway which has been widened and straightened therein.

3. If any town shall unreasonably neglect to grade the hills in any highway therein agreeably to the judgment of the court of common pleas.

4. If any town shall neglect to cause any dangerous causeway or embankment in any highway therein to be securely railed.

5. If any town shall neglect to keep any highway therein in good repair and suitable for the travel passing thereon.

SEC. 2. The grand jury may indict, or the attorney general or solicitor may file an information against any such town for either of said offences; and a summons shall thereupon be issued to such town, which shall be served by giving to one of the selectmen and to the town clerk, or leaving at their usual places of abode respectively, an attested copy thereof with a like attested copy of the officer's return thereon, thirty days before the court at which the same is returnable.

SEC. 3. If such town shall not appear at said court, or shall be found guilty by verdict or otherwise, the court shall impose on such town a fine sufficient to put such highway in good repair, and to defray all the expenses connected therewith, and render judgment against such town for costs.

SEC. 4. No fees for witnesses shall be taxed against such town, except such as have attended as witnesses in such prosecution by order of the attorney general or solicitor.

SEC. 5. All such fines and costs shall be levied and collected by execution in the same manner as executions against towns are levied in civil cases. Such fine shall be paid over to the agent appointed as is herein prescribed, and the costs to the attorney general or solicitor.

SEC. 6. One or more agents shall be appointed by the court to superintend the collection of such fine, who shall apply the same to make, alter, repair, grade or secure such road as the case may require, and who shall seasonably make return of his doings in the application and expenditure thereof to said court for their allowance.

SEC. 7. No highway that has not been laid out agreeably to statute law shall be deemed a public highway unless the same has been used by the public for a term of time not less than twenty years; and no highway thrown open to the public, the use of which would not be necessary for public travel, excepting for the purposes of travel over a toll bridge, shall ever be deemed a public highway, unless the same shall be laid out agreeably to statute law.

CHAPTER 58.

OF THE DISCONTINUANCE OF HIGHWAYS.

IDENTICAL WITH

Chapter 54, of the Revised Statutes.

SECTION

1. Towns may discontinue road.
2. Consent of court, when necessary.

SECTION

3. Damages for such discontinuance, when allowed.

SECTION 1. Any town at a legal meeting holden for the purpose, may discontinue any highway in such town.

SEC. 2. No vote of discontinuance shall be effectual without the consent of the court of common pleas, if such road was not laid out by the selectmen, or if it was laid out by the selectmen during the pendency of any petition in the court of common pleas for the laying out thereof, or if an indictment or information is pending against such town for neglect to make or repair such highway.

SEC. 3. If any person is injured by the discontinuance of any highway, he may petition the court of common pleas for redress; and the court, after due notice to others interested, may award such damages and costs as may be just, and issue execution therefor against the town.

CHAPTER 59.

OF REPAIRING HIGHWAYS.

COMPILED FROM

Chapter 55 of the Revised Statutes.

" 733, Laws of 1848.

SECTION

1. Money raised by towns.
2. Prices of labor, how fixed.
3. Surveyors to be chosen.
4. Districts to be limited.
5. Notice to work given, and how.
6. Notice on sudden emergency.
7. Tax levied by distress.
8. Excuse may be made.
9. Account rendered by surveyors.

SECTION

10. Extent for neglect, when issued.
11. Tax worked in other districts.
12. Persons permitted to expend taxes upon private ways.
13. Tax may be raised in money and expended.
14. Collector's power in that case.
15. Materials to be purchased.
16. Removal of earth from road.

SECTION

17. Tax not needed in district, where to be worked out.
18. Time of travelling allowed.

SECTION

19. Expense of repairs made by county, when.
20. Such expense, how paid.

SECTION 1. Every town at their annual or other meeting shall raise such sum of money as they may judge necessary for making and repairing the highways and bridges therein for that year, and the same shall be assessed on polls and estates in the same manner as state taxes are by law assessed.

SEC. 2. The town may determine the prices to be allowed for labor, utensils and materials applied in repairing highways; otherwise such prices shall be fixed by the selectmen.

SEC. 3. The town may choose as many surveyors of highways as they shall judge proper, who shall enter on their duties on the first day of May; and in case no election shall be made, the selectmen shall appoint such surveyors.

SEC. 4. The selectmen, on or before the first day of May, shall limit the several surveyors' districts, and give to each a list of the several persons in his district, with the highway tax assessed to each, and a warrant to collect the same.

SEC. 5. Every surveyor shall give personal notice to or leave a notice at the usual place of abode of each person named in his list, of the amount of his tax, and of the time when, the place where, and the tools with which he shall attend to work out his tax, four days before the time appointed, and may require any person to work any part of his tax, not exceeding one half, in labor of oxen or horses.

SEC. 6. In cases of sudden emergency which may require immediate remedy, the surveyor may give such notice to any person to attend forthwith.

SEC. 7. If any person so notified shall neglect or refuse to attend in person, or by one or more suitable laborers, the surveyor shall levy the delinquent's tax by distress in the same manner as collectors may levy and collect the state tax.

SEC. 8. If any delinquent shall within four days after the time so appointed, render to the surveyor a sufficient excuse for his neglect, he shall be notified to work at some other time.

SEC. 9. Every surveyor shall render an account of the tax to him committed, and pay over the balance not expended on the highways, to the selectmen agreeably to the requirement of his warrant.

SEC. 10. If any surveyor shall neglect to render such account and pay over such balance, the selectmen may proceed with such surveyor in the same manner they may by law proceed with collectors of taxes who are delinquent in collecting and paying over the taxes committed to them to collect.

SEC. 11. The selectmen may order any surveyor to cause the taxes then due on his list to be worked out in any other district in

which the taxes from any unforeseen accident shall be found insufficient; and if the taxes then due shall be insufficient, the selectmen shall cause the road or bridge affected by such accident to be put in repair at the expense of the town.

SEC. 12. The selectmen may, whenever they may deem it proper, permit any person who may not reside upon a public highway to expend the whole or any part of his highway tax upon any private way leading from the public highway to the dwelling house of such person. (*Laws of 1848, chap. 743.*)

SEC. 13. Any town may order any highway tax then voted to be raised, to be collected by the collector of taxes in money; and such tax shall be paid over to the treasurer or selectmen and expended in repairing the highways, under the direction of the selectmen or surveyors of highways, as the town may direct. (*R. S., sec. 12.*)

SEC. 14. The collector of taxes shall have the same powers and be subject to the same duties and liabilities in relation to any tax so voted as he has in relation to the state tax. (*R. S., sec. 13.*)

SEC. 15. Surveyors of highways may purchase all such timber, plank and other materials as are necessary for repairing the highways and bridges in their respective districts at the cost and charge of the town. (*R. S., sec. 14.*)

SEC. 16. Every surveyor shall have power within his district to remove any gravel, sand, rocks or other material from the travelled part of any highway therein, without damage or injury to the adjoining land, to any other part of the highways in said district for the purpose of repairing and grading the same; but he or those under him shall not for any purpose make an uncovered trench or ditch by the side of the travelled part of any highway next and opposite to any dwelling house or yard situate thereon, or in any way obstruct the passage to and from the same. (*R. S., sec. 15.*)

SEC. 17. Whenever the whole tax in any surveyor's list is not in the opinion of the selectmen needed for repairing the highways in his district, they may direct the surveyor to cause the same to be worked out in any other district. (*R. S., sec. 16.*)

SEC. 18. The surveyor shall allow every person resident in his district performing labor or service on the highways, for the time necessarily occupied in travelling from his home to the place where such labor is performed and in returning therefrom. (*R. S., sec. 17.*)

SEC. 19. The court of common pleas upon petition may order any part of the expense of repairing any highway to be paid from the county treasury, in case they shall judge the expense of such repairs to be unjustly burdensome to such town, or in case the county convention shall be of opinion that any part of such expense should be paid by the county. (*R. S., sec. 18.*)

SEC. 20. The court may direct such sum as they may order to be paid by the county to be paid to the town, or may cause such highway to be put in repair in such manner as they may think proper, and draw their order for said sum upon the county treasurer. (*R. S., sec. 19.*)

CHAPTER 60.

OF MAKING AND REPAIRING HIGHWAYS NOT IN ANY TOWN.

IDENTICAL WITH
Chapter 56 of the Revised Statutes.

SECTION

1. Owners of land to contribute.
2. Notice of laying out; expense may be paid by county.
3. Tax to be assessed therefor.
4. Notice of tax and sale given.
5. Owners may pay their share.

SECTION

6. Sale to be made, when and how.
7. Deed and right of redemption.
8. Money, how to be applied.
9. Repairs made in same manner.
10. Owners may assess tax therefor.

SECTION 1. Highways not within the limits of any town shall be made and repaired by the owners of the lands through which they pass; and all the owners of any land holden under one title from the State or province, shall pay their proportion according to their interest of all costs of making and repairing the highways through any part of such land.

SEC. 2. The court of common pleas, whenever they shall lay out any highway through such land, shall cause notice thereof to be published in some newspaper four weeks successively, describing such highway and requiring the owners of the land to make said highway passable within such reasonable time as they may order, and said court may order the whole or any part of the expense of making or repairing said highway to be paid by the county.

SEC. 3. If such highway shall not be made as required by such notice, the said court shall assess such land so much by the acre as they may judge necessary to make the same.

SEC. 4. The county treasurer shall advertise such tax in some newspaper four weeks, requiring the owners of such land to pay the same to him in sixty days from the first publication of such advertisement, and notifying the owners that such land will otherwise be sold at auction at a certain time and place mentioned therein.

SEC. 5. The owner of any part of or interest in such tract may pay said tax for the same, and take a receipt describing the part or interest for which he pays.

SEC. 6. If said tax is not paid within said sixty days on any part of such land, the county treasurer shall sell the part or interest of the delinquent at the time and place mentioned in such advertisement, or so much thereof as may be necessary to pay said tax with incidental charges.

SEC. 7. The county treasurer shall make a deed of the land so

said to the purchaser after the time of redemption has expired, and any person interested therein may redeem the same by payment or tender to the county treasurer, for the use of the purchaser, of the amount for which the same was sold, with twelve per cent. interest thereon, within one year from the sale.

SEC. 8. The money so raised shall be applied under the direction of the court to make and repair such highways.

SEC. 9. A similar method may be pursued by said court to keep in repair highways running through said lands, in case the owners shall neglect to repair the same.

SEC. 10. The owners of such lands may call meetings and vote such sums of money for making and repairing highways as they may think proper, and choose officers for levying and collecting the same, as proprietors of common and undivided lands are by law authorized to do.

CHAPTER 61.

OF DAMAGES FROM DEFECTS OF HIGHWAYS.

COMPILED FROM

Chapter 57 of the Revised Statutes.

“ 145 Laws of 1844.

SECTION

1. Town liable for damage, when.
2. Surveyor liable to town, when.
3. Not liable, if load over five tons.
4. Nor if over three tons, unless.

SECTION

5. Liability in case of droves.
6. Burden of proof on plaintiff.
7. Damage from snow, liability.

SECTION 1. In case any special damage shall happen to any person or to his team or carriage, by reason of the obstructions, insufficiency or want of repair of any highway or bridge in any town, the person injured shall recover his damage in an action against such town. (*R. S., sec. 1.*)

SEC. 2. The town shall have a remedy over against any surveyor of highways through whose fault or neglect the said damage happened. (*R. S., sec. 2.*)

SEC. 3. No town or other corporation shall be liable for any damage arising from any deficiency of any highway or bridge, if the weight of the load upon the carriage, exclusive of the carriage, shall exceed five tons. (*Laws of 1844, chap. 145, sec. 1.*)

SEC. 4. No town or other corporation shall be liable for any damage arising from any deficiency of any highway or bridge, if the weight of the load upon the carriage, exclusive of the carriage, shall exceed three tons, unless the felloes of the wheels of such

carriage shall be of the width of five inches or more. (*Laws of 1844, chap. 145, sec. 2.*)

SEC. 5. No town or corporation shall be liable to any person for any damage occasioned to droves of cattle by reason of the deficiency of any bridge, where the number of cattle on such bridge at the same time shall exceed twenty-five. (*R. S., sec. 5.*)

SEC. 6. Upon the trial of any action for the recovery of such damage, it shall be incumbent on the plaintiff to prove the weight of such load or the number of cattle upon such bridge. (*R. S., sec. 6.*)

SEC. 7. Every town and surveyor of highways shall be liable for any damage arising from the snow encumbering the same, as from any other deficiency; and such surveyor and the selectmen shall have the same powers and be subject to the same duties in relation to such encumbrance, as in case of any other accident occurring to a highway. (*R. S., sec. 7.*)

CHAPTER 62.

OF INJURIES TO HIGHWAYS AND RAILROADS.

IDENTICAL WITH

Chapter 58 of the Revised Statutes.

SECTION

1. Destroying highways, liability for.
2. Extent of such liability.

SECTION

3. Injuring railroads, liability for.

SECTION 1. If any person shall wantonly or illegally injure or damnify any highway, causeway or bridge, by destroying or taking away any of the plank, timbers, stone or other materials thereof, or by digging any pit therein for gravel or clay, or for any other purpose, he shall on conviction be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding six months.

SEC. 2. Every person so injuring or damnifying any highway or bridge, shall be liable to the town for all damage done to the same, and for all damages to which such town may be subjected by reason thereof.

SEC. 3. If any person shall wilfully and maliciously obstruct the passing of any carriage on any railroad, or in any way injure said road or anything appertaining thereto, or any materials or implements for the construction or use thereof, such person and all who shall aid and abet such trespass, shall forfeit to the use of the corporation owning such road, for every such offence treble the amount of damages which shall appear on the trial to have been sustained thereby.

CHAPTER 63.

OF ENCUMBRANCES IN HIGHWAYS.

IDENTICAL WITH

Chapter 59 of the Revised Statutes.

SECTION

1. Encumbrances may be removed.
2. Notice to remove given.
3. Justice to view, may order sale.

SECTION

4. Sale made by surveyor.
5. Liability to indemnify town.

SECTION 1. The surveyor of highways may remove any timber, lumber, stones or other thing whatever placed or being in any highway or street to the encumbrance thereof.

SEC. 2. Such surveyor may, if he choose, give reasonable notice to the owner or person leaving any such encumbrance to remove the same; and upon their neglect or refusal to remove the same, or if they are unknown, he may make complaint thereof to a justice of the peace.

SEC. 3. Such justice shall cause notice to be given to the owner or person leaving the same, if known, of the time appointed by him to view such encumbrance; and after hearing such party, may upon his own view issue his warrant to the surveyor to remove the same, so far as he shall judge necessary for the public convenience, and to sell so much thereof as may be necessary to pay the legal costs taxed by him, and three times the price of the labor of removing the same, to be estimated by such justice.

SEC. 4. The surveyor shall have the same power and be governed by the same rules in making such sale as collectors of taxes in the sale of property distrained by them; and if the proceeds of such sale shall be insufficient to pay the sums specified in such warrant, the surveyor may recover the balance unpaid by action on the case against the person leaving the same.

SEC. 5. If any person shall place in any highway or street any timber, lumber, stones, or anything whatever to the encumbrance or obstruction thereof, he shall be liable to the town for all damages and costs which said town shall be compelled to pay to any person who has sustained damage by reason of such encumbrance or obstruction.

CHAPTER 64.

OF ENCROACHMENTS ON HIGHWAYS.

IDENTICAL WITH

Chapter 60 of the Revised Statutes.

SECTION

1. Buildings or fences in highways are nuisances.
2. What cases are excepted.

SECTION

3. Gates across highways, in what cases allowed.
4. Court may remove such gate, when.

SECTION 1. If any building, structure or fence shall be erected or continued upon or over any highway, street or alley, so as to obstruct the same or lessen the full breadth thereof, it shall be deemed a public nuisance; and any person erecting or continuing the same shall be punished by fine not exceeding fifty dollars and costs of prosecution; and the court shall order and cause such building, structure or fence to be taken down or removed.

SEC. 2. The foregoing section shall not be construed to prohibit the erection of any watch house or structure for public use by the selectmen of any town, or any sign or awning erected in conformity to the regulations established by the police officers.

SEC. 3. The selectmen upon application may, by license recorded by the town clerk, permit any person to keep a gate upon any highway leading across any meadow or intervale land liable to freshets, at a place therein designated; under such restrictions as they may judge proper; and they may at any time alter or revoke such license.

SEC. 4. If any person shall think himself aggrieved by the grant of such license, he may apply by petition to the court of common pleas for redress, who shall cause such notice to be given to all persons concerned as they shall judge proper, and may affirm, alter or annul such license.

CHAPTER 65.

OF BRIDGES.

COMPILED FROM

Chapter 61 of the Revised Statutes.

" 1281, Laws of 1852.

SECTION

1. By-laws made by towns, when.
2. By-laws made by bridge companies.
3. Notice of such by-laws, how given.

SECTION

4. Towns to keep travelled part of bridges covered with snow.
5. To be indicted for neglect.
6. Time act takes effect.

SECTION 1. Any town at a legal meeting may establish by-laws to prevent any person from wilfully riding or driving at a rate faster than a walk, over any bridge in such town which shall have cost one thousand dollars or more, and annex penalties not exceeding one dollar for the breach thereof, to be recovered in the name and for the use of the town.

SEC. 2. The proprietors of any toll bridge may make by-laws to prevent any person from riding or driving over such bridge at a rate faster than a walk, and annex penalties not exceeding two dollars for the breach thereof, to be recovered by the corporation for its own use.

SEC. 3. No such by-law shall be in force unless such town or corporation shall cause to be posted and kept up in some conspicuous place, at each end of said bridge, a board painted with a white ground containing in black letters the substance of such by-laws.

SEC. 4. All towns and other corporations in this State who now have or shall hereafter erect and maintain a covered bridge across any stream in this State to be used as a public highway, shall keep the travelled part thereof completely covered with snow during the winter season in each year when there is sufficient snow upon the roads in the neighborhood of said bridges for sleighing. (*Laws of 1852, chap. 1281.*)

SEC. 5. Any town or other corporation in this State who shall neglect or refuse to comply with the requirements of the foregoing section, shall be liable to indictment in the same way and manner as towns now are for neglecting to keep in good repair the highways within their respective limits. (*Laws of 1852, chap. 1281.*)

SEC. 6. This act (the two preceding sections) shall take effect from and after the first day of November, 1853.

CHAPTER 66.

OF GUIDE POSTS.

IDENTICAL WITH

Chapter 330, Laws of 1846.

SECTION

1. Towns to erect guide boards; may dispense with them in certain cases.
2. Penalty for neglect.

SECTION

3. Fine for throwing down, destroying, &c.

SECTION 1. Every town shall erect and keep in repair suitable guide boards or guide posts at the intersection and junction of all public highways, on which shall be distinctly and legibly marked the name of such neighboring town or place as shall be most necessary and convenient for the direction of travellers, and such other towns as the selectmen shall think proper, and the distance in miles to the same, with an index pointing towards the places to which said road leads; *provided* that any town may by vote at any town meeting, upon an article in the warrant therefor, determine to dispense with a guide board or guide post at any place or places where they may believe the same to be unnecessary.

SEC. 2. If any town shall neglect to erect or keep in repair any guide board or guide post required as aforesaid, they shall forfeit and pay for each neglect the sum of five dollars, to be recovered by any person who will sue for the same for his own use; *provided, however,* that no such suit shall be commenced until the person proposing to bring such suit shall have given to one of the selectmen of such town notice in writing of his intention to commence such action, at least twenty days prior thereto; and if the said selectmen shall cause to be erected or repaired such guide board or guide post before the expiration of said twenty days, no such action shall be sustained.

SEC. 3. If any person shall throw down, destroy or deface any such guide board, guide post or its appendages, or the letters or figures thereon, or aid or assist therein, he shall, on conviction upon complaint before any justice of the peace, be punished by fine not exceeding ten dollars, for the use of the town.

CHAPTER 67.

OF TURNING TO THE RIGHT.

IDENTICAL WITH

Chapter 63 of the Revised Statutes.

SECTION

1. All travellers to turn to the right.
2. Liability for neglect so to do.

SECTION

3. Prosecution limited to ninety days.
4. Action limited to one year.

SECTION 1. Every person travelling with any carriage or other vehicle, who shall meet any other person so travelling on any highway or bridge, shall seasonably drive his carriage or vehicle to the right of the centre of the travelled part of the road, so as to enable such person to pass with his carriage or vehicle without interference or interruption.

SEC. 2. Every person who shall offend against the provisions of the preceding section, shall, upon complaint before a justice of the peace, be punished by fine not less than one dollar nor more than twelve dollars, and shall be liable for all damages sustained in consequence of any neglect to comply with said provisions.

SEC. 3. No complaint for any offence prohibited by this chapter shall be sustained, unless made by the party aggrieved or by some person authorized by him within ninety days after such offence is committed.

SEC. 4. No action for damages sustained by reason of any violation of this chapter shall be supported, unless it shall be commenced within one year after the cause of action accrued.

CHAPTER 68.

OF FERRIES.

IDENTICAL WITH

Chapter 64 of the Revised Statutes.

SECTION

1. Boats to be provided at all times.
2. Rates of ferriage, how fixed.

SECTION

3. Penalty for demanding more.

SECTION 1. Every ferryman shall keep one or more good boats in good repair, suitable for the water they are to ferry over, and shall give ready and due attendance on passengers upon all occa-

sions. If any ferryman shall neglect to provide such boat, he shall forfeit ten dollars; and if he shall neglect or refuse to give such attendance, he shall forfeit five dollars, to the use of any person who shall be injured by such neglect.

SEC. 2. The court of common pleas shall determine the rates of ferriage at the several ferries in their counties, which shall be recorded by the clerk, and a copy of the order of the court shall be served on each ferryman at the expense of the county, who shall cause the same to be affixed to some conspicuous place in his house for public inspection.

SEC. 3. If any ferryman shall demand and receive of any person for any service rendered by him as such ferryman, a greater sum than the rate prescribed in such order of court, the same may be recovered by the person paying the same with costs of suit, and such ferryman shall upon complaint before any justice of the peace be fined not exceeding five dollars.

TITLE X.

OF THE SUPPORT OF PAUPERS AND THE PREVENTION OF PAUPERISM.

- CHAPTER 69. Of the settlement of paupers.
- CHAPTER 70. Of the support of town paupers.
- CHAPTER 71. Of the support of county paupers.
- CHAPTER 72. Of the maintenance of bastard children.

CHAPTER 69.

OF THE SETTLEMENT OF PAUPERS.

IDENTICAL WITH

Chapter 65 of the Revised Statutes.

SECTION

1. Settlements, how gained.
2. Not by birth, unless parents have a settlement.

SECTION

3. Nor unless under a law passed since December 31, 1795.
4. Settlement lost by gaining a new one.

SECTION 1. A legal settlement may be gained by any person in any town, so as to oblige such town to support such person, if

poor and unable to support himself, in the manner following, and not otherwise:

First: A married woman shall have the settlement of her husband, if he has or shall acquire any within this State; otherwise her settlement at the time of her marriage shall continue:

Second: Legitimate children shall have the settlement of their father if any he has within this State; otherwise the settlement of their mother, if any she has, until they gain a settlement of their own:

Third: Illegitimate children shall have the settlement of their mother at the time of their birth, if any she has within the State:

Fourth: Any person of the age of twenty-one years, having real estate of the value of one hundred and fifty dollars, or personal estate of the value of two hundred and fifty dollars, in the town where he dwells and has his home, and paying all taxes duly assessed on him and his estate for four years in succession, shall thereby gain a settlement in said town:

Fifth: Any person admitted an inhabitant by any town at any legal meeting in the warrant for which an article for the purpose shall be inserted, or who shall be chosen and shall actually serve one year in the office of clerk, treasurer, selectman or overseer of the poor therein, shall thereby gain a settlement in such town:

Sixth: Any person dwelling and having his home in any unincorporated place at the time when the same shall become incorporated into a town, shall thereby gain a settlement therein:

Seventh: If two or more towns shall be incorporated into one town, any person having his settlement in either of such towns, shall have his settlement in the town so incorporated:

Eighth: Upon the division of any town, any person having his settlement therein, shall thereafter have his settlement in that town in which his last dwelling place shall have been:

Ninth: If the dwelling house or home of any person residing but having no settlement in any town, shall by act of law fall within the limits of any other town, such person shall acquire a settlement in such last named town in the same time and manner as he would have done in the former town if no such change had taken place:

Tenth: Any person of the age of twenty-one years, who shall have resided in any town in this State, and being taxed for his poll for seven years in succession, shall have paid all taxes legally assessed on his poll and estate during said term, shall thereby gain a settlement in such town.

Sec. 2. No person shall gain a settlement by birth in any town in which neither of his parents then has a settlement.

Sec. 3. No town shall be liable for the support of any person unless he or the person under whom he derives his settlement, shall have gained a settlement therein under some law passed since the thirty-first day of December, A. D. 1795.

SEC. 4. Every settlement shall continue until a new settlement is gained in this State, and upon gaining such new settlement any former settlement shall be lost.

CHAPTER 70.

OF THE SUPPORT OF TOWN PAUPERS.

IDENTICAL WITH

Chapter 66 of the Revised Statutes.

SECTION

1. Paupers are to be supported.
2. Poor farm may be purchased.
3. Officers of poor farm appointed.
4. Paupers may be bound out.
5. Idlers set to work or bound out.
6. Mode of binding out.
7. Burial of paupers.
8. Relations of ability to support, liable.

SECTION

9. Town may recover expense.
10. Notice of sum expended to be given.
11. Service of such notice, how made.
12. Return of service, how made.
13. Notice good, for what time.
14. Limitations of actions.
15. Action may be transferred to another county, when.

SECTION 1. When any person in any town shall be poor and unable to support himself, he shall be relieved and maintained by the overseers of the poor of such town, whether he has a settlement in such town or otherwise.

SEC. 2. Any town may purchase and hold lands, and may purchase or erect all buildings and furnish all means which may be necessary for the accommodation, support and employment of the poor within said town, and at any legal meeting may raise so much money as may be necessary for said purposes, and for managing and keeping such property in repair.

SEC. 3. The town may appoint all necessary officers for the management of such property, and establish necessary by-laws and regulations for the government of its inmates, *provided* that no punishment shall exceed that allowed in the house of correction of said town.

SEC. 4. The overseers of the poor in any town may by written contract bind out to labor for a term not exceeding one year, or employ in their work house every person residing in such town, who lives idly and pursues no lawful business, and who is poor and stands in need of relief, or whose family standing in need of relief is supported by such town, and shall take the wages and appropriate the same to the maintenance of such person, his family or children.

SEC. 5. Said overseers may set to work in the work house or elsewhere, or bind out as apprentices all children residing in their

respective towns, who are not employed in some lawful business, and whose parents are unable or neglect to maintain them. The males may be bound out until they arrive at the age of twenty-one years, and the females until they arrive at the age of eighteen years.

SEC. 6. Such contract shall be in writing, shall be made equitably, and as much as may be for the interests of the persons bound out, and shall provide that they shall be instructed to read, write and cipher, and to do such work and business as is suitable to their condition. The overseers shall inquire into the usage of all persons so bound out, shall see that said contract is fulfilled and that all wrongs or injuries are redressed, and the rights and obligations of such master and apprentice shall be the same as in the case of other apprentices.

SEC. 7. If any pauper shall die in any town in this State having a settlement in such town or otherwise, the overseers of the poor shall cause such person to be decently buried at the expense of the town.

SEC. 8. The relations of any poor person in the line of father or grandfather, mother or grandmother, children or grandchildren, of sufficient ability, shall be liable to maintain such person when standing in need of relief. If such person has no such relations of sufficient ability, the town wherein such person has a legal settlement, shall be liable for his support.

SEC. 9. If any town in this State shall expend any sum for the support or burial as aforesaid of any poor person having a settlement in some other town in this State, or having any relations of sufficient ability, such sum may be recovered of the town or person so chargeable by law with the support of such poor person.

SEC. 10. No action shall be sustained against any town or person chargeable as aforesaid, unless a notice in writing signed by the overseers of the poor stating the sums so expended, shall first have been given to such town or person.

SEC. 11. Such notice shall be served upon such town by the sheriff or his deputy, by leaving an attested copy thereof and of his return thereon with one at least of the selectmen or overseers of the poor, and with the clerk of such town; and upon any person chargeable as aforesaid, by giving him in hand or leaving at his usual place of abode a like copy.

SEC. 12. The officer making such service shall, within twenty days thereafter, make a return of the original notice with his doings therein, to the clerk of the court of common pleas in the county in which the town or person chargeable may be, and shall receive the same fees for his travel and service as by law are allowed for serving writs.

SEC. 13. Such notice shall be sufficient for all sums so expended within ninety days previous to such service, and for any sum so expended within one year thereafter.

SEC. 14. No action aforesaid shall be sustained unless com-

menced within three years from the time of the service of such notice upon the town or person chargeable, nor for any sum that may have been expended more than ninety days previous to such notice.

SEC. 15. When any county in which any action for the support of a pauper is pending, may eventually be liable for the support of such pauper under any law of this State, the court shall on motion transfer such action to an adjoining county for adjudication.

CHAPTER 71.

OF THE DISPOSAL AND SUPPORT OF COUNTY PAUPERS.

COMPILED FROM

Chapter 67 of the Revised Statutes.

" 239, Laws of 1845.

SECTION

1. County, when and how liable.
2. County poor house, how provided.
3. County paupers bound out, how.
4. Town ceasing to be organized, county to support its paupers.
5. Penalty for bringing pauper from another state who has no settlement in this.

SECTION

6. Penalty for bringing pauper from another state who has a settlement in such other state.
7. Master of vessel to give bond, when.
8. Penalty for not giving bond.
9. Bond, how put in suit.
10. Pauper brought from another county, penalty.
11. Such pauper may be removed.

SECTION 1. When any poor person for whose support no person or town in this State is chargeable, shall be relieved or buried at the expense of any town, the overseers of the poor within one year thereafter, or in case a suit therefor has before the termination of said year been commenced against any town or person within six months after the termination thereof, may present an account of all moneys so expended to the court of common pleas of the county in which such town is, with proper vouchers, and said court shall allow such sum as they shall think reasonable, to be paid out of the treasury of the county.

SEC. 2. The court of common pleas in any county, upon a recommendation of a majority of the representatives to the legislature from the several towns composing said county, may provide at the expense of such county all such lands, buildings and articles as may be necessary for the accommodation, support and employment of the poor who may be chargeable to such county, and may appoint suitable officers for their management and establish necessary rules and regulations therefor; but in no case shall the punish-

ment for any offence exceed that allowed by law in the house of correction.

SEC. 3. The court of common pleas may bind out, or may authorize the overseers of the poor of any town to bind out or employ any person chargeable or liable to be chargeable to the county, in the same manner that such overseers might do in case of a person chargeable to such town; and the rights and obligations of all parties shall be the same as in such case.

SEC. 4. When any town in this State shall cease to be organized as a town, all paupers who may have a legal settlement in such town and who have no relations by law bound to support them, shall be maintained by the county in which such town is situate, until the same shall be reorganized.

SEC. 5. If any person shall bring from any other state and leave in any town in this State, or shall so bring with intent to leave, any poor and indigent person having no visible means of support and no settlement within the State, knowing such person to be poor and indigent as aforesaid, he shall be punished by fine not exceeding three hundred dollars nor less than fifty dollars, or by imprisonment not exceeding six months.

SEC. 6. If any person shall bring from any other state and leave in any town in this State, or shall bring with intent to leave, any poor and indigent person having no visible means of support, and having a settlement in such state from which such poor and indigent person may be brought, knowing such person to be poor and indigent as aforesaid, or shall counsel him or procure such poor and indigent person to be so brought, or shall aid or assist therein, he or they shall be punished by fine not exceeding five hundred dollars nor less than one hundred dollars, or by imprisonment not exceeding one year, and shall be further liable to any town or county in this State for all such sums of money as may be expended by any town or county for the support and maintenance of such poor and indigent person. (*Laws of 1845, chap. 239.*)

SEC. 7. No master of any vessel having passengers on board who have no settlement within this State, shall suffer such passengers to land, until he shall give bond to the State in a sum equal to two hundred dollars for every such passenger, with sufficient sureties to the satisfaction of the selectmen of the town in which such passengers are landed, conditioned to indemnify and save harmless such town and every town and county in the State, from all expenses which for three years thereafter may arise from such passengers, whose names shall be inserted in said bond.

SEC. 8. If any master shall suffer any such passenger to land before such bond shall be given, unless the same shall be dispensed with by such selectmen on application therefor, he shall be punished by fine not exceeding two hundred dollars for each passenger so landed, or by imprisonment not exceeding one year.

SEC. 9. Said bond shall be filed by the selectmen who approve the same, in the office of the clerk of the court of common pleas.

for the county, and may by leave of the court be prosecuted for the benefit and at the expense of the party applying.

SEC. 10. If any person shall bring and leave, or bring with intent to leave, any poor and indigent person having no visible means of support, into any county in this State, from any other county in which such poor person may have resided or have been supported, such poor person not having a legal settlement in any town nor any relation chargeable for his support within the county into which such poor person is brought, knowing him to be thus poor and indigent, he shall be punished by fine not exceeding two hundred dollars nor less than thirty dollars, or by imprisonment not exceeding six months.

SEC. 11. Every such poor and indigent person may be removed from said county by order of the court of common pleas into the county from which he was so brought as aforesaid.

CHAPTER 72.

OF THE MAINTENANCE OF BASTARD CHILDREN.

IDENTICAL WITH

Chapter 68 of the Revised Statutes.

SECTION

1. Warrant for arrest, how issued.
2. Bond may be required.
3. Proceedings returned to court of common pleas.
4. Mother may be a witness, when.
5. Security for support required.
6. Town may prosecute complaint.
7. Town may make complaint.

SECTION

8. Proceedings on such complaint.
9. Costs for respondent, if not guilty.
10. Respondent imprisoned, how discharged.
11. Respondent going out of county, how arrested.
12. Proceeding on such arrest.

SECTION 1. If any woman is pregnant with a child which, if born alive, may be a bastard, she may make complaint in writing under oath to any justice of the peace in this State against any man, charging him with having begotten such child; and said justice may thereupon issue his warrant commanding the person so charged to be brought before some justice of the peace in and for the county in which the offence is alleged to have been committed, or in which the person so charged may reside.

SEC. 2. The justice before whom such person shall be brought, if he see fit, may order such person to give bond to the complainant in a reasonable sum, with sufficient surety or sureties to the satisfaction of the justice, conditioned to appear at the term of the court of common pleas next to be holden within and for the

county in which the offence is charged to have been committed, to answer to such complaint and to abide the order of said court thereon, and in default thereof may commit him until such order is performed.

SEC. 3. Said justice shall make a certified copy of each paper in said case, and shall deliver the same to the complainant or return the same to said court on or before the first day of the term aforesaid; and said complaint shall be entered at said term, and the person charged may be ordered to give bond as aforesaid to the satisfaction of said court, for his appearance at any future day or term and to abide the order of the court. The complaint shall be tried by the court, unless either party requests a jury, in which case it shall be tried by a jury, and the issue shall be *chargeable* or *not chargeable*.

SEC. 4. Any woman who shall have made her complaint in the manner aforesaid, charging any man with being the father of the child and stating the time when and the place where the same was begotten, and shall have declared in the time of her travail the same person to be the father of the child to the persons attending her, if any person did attend her, and shall have continued constant in such accusation, shall be a competent witness on the trial of such complaint, her credibility being left to the court or jury who try the cause; but no woman shall be admitted as a witness as aforesaid who shall have been convicted of any crime rendering her incompetent to testify in any other case.

SEC. 5. If any man is found chargeable as aforesaid, the court shall order him to pay such sum as they shall deem reasonable, to the mother of the child or the selectmen of the town liable by law for the maintenance of the child, to be applied for such maintenance, and also to pay costs of prosecution, and may order him, or the mother or both to give security to save such town harmless from all charge for the maintenance of such child. Any person who shall neglect or refuse to obey any such order, may be committed until the same is obeyed.

SEC. 6. If any woman after having made her complaint as aforesaid, shall abandon the same, the town liable by law as aforesaid shall, upon application to the court or justice in writing made for that purpose by their selectmen, agent or attorney, be admitted to prosecute said complaint, a record whereof shall be made; and all subsequent proceedings thereon shall be the same as if said complaint had been instituted originally by such town.

SEC. 7. If the mother of a bastard child neglects or refuses to make complaint as aforesaid, or having made a complaint shall neglect to prosecute the same in the court aforesaid, or shall in the opinion of the selectmen of any town liable by law as aforesaid make a false complaint, any justice of the peace to whom complaint may be made by said selectmen against any man, charging him with having begotten such bastard, may issue his warrant under his hand and seal directing such person to be brought before some

justice of the peace in and for the county in which the offence was committed, or in which such offender may reside.

SEC. 8. Such complaint shall be in the name of such town, and the proceedings thereon shall be the same in all respects as if the mother had complained as aforesaid. If found chargeable, he shall be ordered to give security to save the town harmless from the maintenance of such child, and to pay all costs of prosecution and to stand committed until said order shall be performed.

SEC. 9. When any town is a party to such prosecution and the party accused shall be found not chargeable, he shall recover his costs against such town.

SEC. 10. If any person committed to prison by virtue of this act, is poor and unable to pay such sum or to procure such security as may be ordered, said court may on application for that purpose discharge such person from imprisonment at such time and upon such terms as they shall think expedient.

SEC. 11. Whenever a warrant shall be issued as aforesaid by any justice, and the person charged therein shall either before or after the issuing thereof escape or go out of the county, the sheriff thereof or his deputy, or any constable of the town to whom such warrant shall be directed, may pursue such person and apprehend him in any county in this State, and carry him before any justice in and for the county in which he was so apprehended, for examination.

SEC. 12. If it shall appear to said justice that said warrant was duly issued, and that such person did escape or go out from such other county as aforesaid, he shall issue his warrant thereupon directed to such sheriff, deputy or constable, commanding such officer to carry such person before some justice in and for the county from which he has so escaped or gone out, for trial, and that such further proceedings may be had thereon as the law requires.

TITLE XI.

OF PUBLIC INSTRUCTION.

- CHAPTER 73. Of the creation and division of school districts.
 CHAPTER 74. Of the meetings and officers of school districts.
 CHAPTER 75. Of school houses.
 CHAPTER 76. Of assessment and apportionment of the school tax.
 CHAPTER 77. Of the regulation, instruction and inspection of schools.
 CHAPTER 78. Of truant children and absentees from school.
 CHAPTER 79. Of high schools.
 CHAPTER 80. Of schools in the town of Portsmouth.
 CHAPTER 81. Of high school in the town of Somersworth.
 CHAPTER 82. Of commissioners of common schools.
 CHAPTER 83. Of teachers' institutes.
 CHAPTER 84. Of instruction of youth in manufacturing establishments.
 CHAPTER 85. Of the literary fund.

CHAPTER 73.

OF THE CREATION AND DIVISION OF SCHOOL DISTRICTS.

COMPILED FROM

Chapter 69 of the Revised Statutes.

" 221, Laws of 1845.

" 223, " " 1845.

" 974, " " 1850.

" 1108, " " 1851.

" 1117, " " 1851.

SECTION

1. Town to be divided into districts.
2. Limits of districts defined and altered.
3. If town neglects, to be done by selectmen.
4. School districts declared corporations.
5. Town not divided into districts, how liable.
6. Penalty for neglect to make division.
7. District divided, property appraised.

SECTION

8. Allowance to be made.
9. Districts united, school house, &c.
10. Powers in case of such union.
11. Executions against school districts, how collected.
12. Selectmen may annex inhabitants to districts in adjoining towns.
13. Selectmen may form districts in two adjoining towns.

SECTION

14. Selectmen to fill vacancies.
15. District to notify both towns of any vote to raise money.
16. Persons annexed, to pay their proportion.
17. Money, how assessed and collected.

SECTION

18. Persons severed from district in one town, right to literary and school funds.
19. Towns exempt from the general laws in relation to division into school districts.

SECTION 1. Every town shall be divided by metes and bounds into so many districts as the public good requires, which shall be distinguished by suitable boundaries and include all the territory of the town. (*R. S., chap. 69, sec. 1.*)

SEC. 2. At any legal meeting for that purpose such division may be made by vote of the town, and the limits of such districts defined and from time to time altered as convenience may require, a record of which shall be made. (*R. S., chap. 69, sec. 2.*)

SEC. 3. If any town shall neglect so to divide itself into school districts, the selectmen on application in writing by ten legal voters shall forthwith divide the town into districts, define their boundaries and cause a record thereof to be made by the town clerk within thirty days after such application. The town of Newington is exempted from this section. (*R. S., chap. 69, sec. 3.*)

SEC. 4. Every school district shall be a body politic and corporate, and may sue and be sued, take, hold, manage and convey real and personal property for the use of the district, and make and enforce all necessary contracts in relation thereto. (*R. S., chap. 70, sec. 1.*)

SEC. 5. Any town not divided as aforesaid shall be considered, when necessary, as one district, and shall be entitled to all the rights and subject to all the liabilities of a town and of a district respectively. (*R. S., chap. 69, sec. 4.*)

SEC. 6. If the selectmen of any town shall neglect for six months after application made, to make a division as aforesaid, they shall forfeit a sum not exceeding one hundred dollars. (*R. S., chap. 69, sec. 5.*)

SEC. 7. When a new district is formed from one or more districts, the selectmen upon the petition of a majority of the legal voters of such new district, shall appraise all the property belonging to and all the debts due by each district so divided. (*R. S., chap. 69, sec. 6.*)

SEC. 8. If the property exceed the debts, the selectmen shall assess upon the polls and ratable estate of that part of the district retaining such property, a reasonable sum not exceeding the proportion of the excess which the polls and ratable estates of the parts of the district so divided bear to each other, and shall assess and collect the same in the same manner as school house taxes, and cause the same to be paid over and applied for the use of such new district. (*R. S., chap. 69, sec. 7.*)

SEC. 9. Two or more contiguous districts in adjoining towns may, upon such terms as they shall think proper, unite in the sup-

port of schools to be kept from year to year, so long as they agree, within either of such towns for the common benefit of such districts, and it shall be lawful for the prudential committees of such districts, so long as such union exists, to expend in the support of said schools the proportions of school money assigned to their respective districts by the selectmen of their respective towns. (*R. S., chap. 69, sec. 8.*)

SEC. 10. Each of the districts so uniting shall maintain its separate organization, and may raise money to build, repair, alter, remove and furnish a school house and other necessary buildings for their common use, although the same be not located within the district raising the money, and the money so raised shall be assessed and collected in the same manner as though it had been raised to build a school house within such district. (*R. S., chap. 69, sec. 9.*)

SEC. 11. When an execution shall issue against any school district, a copy thereof shall be left with one of the selectmen of the town, and the selectmen shall assess the inhabitants of such district in a sum sufficient to satisfy the same, and shall have the same authority in the collection thereof that they now have in the collection of town taxes. (*R. S., chap. 70, sec. 2.*)

SEC. 12. The selectmen of two or more adjoining towns, on petition of any member of any school district in either of said towns, may, by a majority of the selectmen in each town, disannex such member, together with his taxable property, for school purposes, from the district to which he belongs, and annex him to some district of one of the adjoining towns. (*Laws of 1845, chap. 221, sec. 1.*)

SEC. 13. Such selectmen may, in like manner, on petition of persons interested, form new school districts by the union of inhabitants of such adjoining towns, and may, for this purpose, set off individuals with their taxable property, from existing districts; and it shall be the duty of the selectmen to define the districts so formed, by metes and bounds, and to cause the same to be recorded in their respective towns, and the selectmen of the town first incorporated may call the first meeting of the district so formed. (*Laws of 1845, chap. 221, sec. 2.*)

SEC. 14. The selectmen of the town in which the school house is located shall have all the powers and are required to perform all the duties in relation to filling vacancies in said district, that the selectmen of towns now have. (*Laws of 1851, chap. 1117, sec. 2.*)

SEC. 15. Whenever a school district, composed of inhabitants of different towns, shall vote to raise money for the purpose of building, buying or repairing a school house, it shall be the duty of the clerk of said district to notify the selectmen of the several towns, in which the persons belonging to such district may reside, of the amount of money so voted to be raised, and it shall be the duty of the selectmen of each of said towns, thereupon, to assess

upon the polls and ratable estate of such persons residing in their respective towns, their due proportion of the sums so voted to be raised, having regard to the entire inventory of all the inhabitants of said district, and to cause the same to be collected and paid over to the person authorized by the district to receive it. (*Laws of 1845, chap. 221, sec. 3.*)

SEC. 16. All persons who have been, or may hereafter be, severed from any school district in one town, and annexed to a school district in any other town, for the purpose of schooling, shall pay a just proportion for the purchase, building or repairing school houses in said districts, to which they are or may be annexed. (*Laws of 1845, chap. 223, sec. 1.*)

SEC. 17. Whenever any such district shall vote to raise money, the clerk of said district shall certify such vote to the selectmen of each of said towns; and said selectmen shall form a joint board for the purpose of assessing upon the polls and ratable estate in said district the due proportion of said money; and each board of selectmen shall commit to the collectors of their respective towns the taxes by them so assessed in their respective towns, to be collected and paid over to the person or persons by said district authorized to receive the same, to be applied and accounted for according to law. (*Laws of 1845, chap. 223, sec. 2.*)

SEC. 18. All persons who have been, or hereafter may be, severed from any school district in one town and annexed to a school district in any other town for the purpose of schooling, shall have and enjoy all the rights and privileges in regard to the literary and school funds of every description, to which they would have been entitled if they had not been so disannexed or united. And whenever the real estate of any person shall be disannexed for the purposes aforesaid, the polls and ratable estate of all persons residing or having their home on said real estate, on the first day of April of each year, shall also be considered as disannexed, and their proportion of the literary and school fund shall be paid over to the prudential school committee of the district to which said real estate has been annexed. It shall be the duty of the selectmen of the town from which any person or persons may be disannexed as aforesaid, to pay over the proportion of the literary and school fund as aforesaid to the prudential school committee as aforesaid, on or before the first day of February, annually. (*Laws of 1850, chap. 974, sec. 1 and 2.*)

SEC. 19. The town of Pittsburg and the town of Bartlett are exempt from the provisions of the law of this State in regard to the division of the town into school districts, and the selectmen thereof, respectively, may divide said towns or any part thereof, into as many school districts as they may deem just, and cause a record thereof to be made in the records of said town, which districts shall have all the rights and privileges and be subject to all the liabilities of other school districts in the State. (*Laws of 1848, chap. 632, and laws of 1851, chap. 1108.*)

CHAPTER 74.

OF THE MEETINGS AND OFFICERS OF SCHOOL DISTRICTS.

COMPILED FROM

Chapter 70 of the Revised Statutes.

" 222, Laws of 1845.

" 319, " " 1846.

" 496, " " 1847.

" 981, " " 1850.

" 1118, " " 1851.

" 1301, " " 1852.

SECTION

1. Meetings, how and when holden.
2. Special meetings called.
3. Meetings warned by selectmen.
4. Original warrant to be recorded.
5. Who are voters.
6. Penalty for illegal voting.
7. Officers of the district.
8. Moderator to be chosen by ballot—
plurality to elect—powers of, &c.
9. Moderator to be sworn.

SECTION

10. Clerk of district, his duties.
11. Vacancies, how filled.
12. Prudential committee, duties.
13. Removal of prudential committee.
14. Notice to be given.
15. Hearing to be had.
16. Check list of voters used in school
districts, when.
17. Check list law may be adopted.

SECTION 1. There shall be a meeting holden annually in the month of March, in each school district, excepting in such towns as shall have adopted the provisions of the chapter of the revised statutes relating to schools in Portsmouth, and the prudential committee of the district shall issue his or their warrant to the inhabitants of such district qualified to vote in town affairs, stating the time, place and purposes of the meeting, and shall warn the same by posting up a copy of such warrant, attested by such committee, on the door of the school house, if there be any in the district, otherwise at one or more public places in the district, seven days at least prior thereto. (*Laws of 1845, chap. 222, sec. 1.*)

SEC. 2. Special meetings may be called at any time in the same manner, except for raising money or building or repairing school houses, in which cases an attested copy of the warrant issued shall be posted up fifteen days prior to the meeting, or given to each voter in hand or left at his usual place of abode at least ten days prior thereto. (*Laws of 1845, chap. 222, sec. 2.*)

SEC. 3. If the prudential committee shall neglect to warn any such annual meeting, by issuing a warrant and posting up an attested copy thereof, as aforesaid, prior to the fifteenth day of March, or shall neglect for the space of ten days after application made in writing by three or more voters of the district, to call any such

special meeting, the selectmen of the town upon a like application shall call such annual or special meeting, by issuing their warrant, and causing a copy thereof, attested by them, to be posted up or served in the manner herein before prescribed. (*Laws of 1845, chap. 222, sec. 3.*)

SEC. 4. In all cases the original warrant, with a certificate thereon verified by oath, which oath the clerk of the district is hereby authorized to administer, that a copy thereof was posted up or served as required by law, shall be given to the clerk of the district on or before the day of the meeting, and shall be recorded by said clerk in the records of the district. (*Laws of 1845, chap. 222, sec. 4.*)

SEC. 5. Any person qualified to vote in town affairs, may vote at any district meeting in the district in which he resides and has his home. (*R. S., chap. 70, sec. 6.*)

SEC. 6. If any person at any school district meeting duly called and holden agreeably to the provisions of the chapter to which this act is in addition (*this chapter—70 of R. S.*) shall give in more than one vote for any officer voted for at such meeting; or if any person under the age of twenty-one years, or any alien not naturalized, or any person who does not reside or have his home in such school district, he shall be punished by fine not exceeding thirty dollars, or may be imprisoned in the common jail not exceeding three months. (*Laws of 1847, chap. 496.*)

SEC. 7. The officers of the district shall be a moderator, a clerk and a prudential committee not exceeding three, all of whom shall be legal voters in the district, and shall hold their offices until the next annual meeting, or until others are duly elected and qualified in their stead. (*R. S., chap. 70, sec. 7.*)

SEC. 8. The moderator of any school district meeting, or of any high school associated district meeting, shall be chosen by ballot by a plurality of the legal voters present and voting at said meeting; and such moderator shall be vested with all the power and authority which moderators of town meetings by law have to conduct the business and preserve order in the meetings over which they preside. (*Laws of 1852, chap. 1301.*)

SEC. 9. The moderator of any school district meeting duly called and holden, before entering upon the duties of his office, shall be sworn to the faithful performance thereof, which oath may be administered by the clerk of the previous year, or any other legal voter of the district calling the meeting to order, and said oath shall be recorded. (*Laws of 1850, chap. 981.*)

SEC. 10. The clerk before entering upon the duties of his office shall be sworn to the faithful performance thereof, which oath may be administered by the moderator and shall be recorded. The clerk shall keep a true and perfect record of all the doings of each meeting, which shall be signed by him, shall deliver to the selectmen a certified copy of every vote to raise money within ten days thereafter, and shall make and certify copies of any record when

required and payment therefor tendered. (*R. S., chap. 70, sec. 8.*)

SEC. 11. If any vacancy shall occur in the office of clerk or prudential committee from neglect to choose or any other cause, the selectmen upon the application of one or more voters in such district shall fill such vacancy, and the officers thus appointed shall hold their offices until new ones are legally chosen and qualified, and shall possess all the powers and be subject to all the duties incident to said offices. (*R. S., chap. 70, sec. 9.*)

SEC. 12. It shall be the duty of the prudential committee to select and hire teachers for the district, provide for them board, furnish necessary fuel, make such occasional repairs in the school house and furniture as may be necessary, not exceeding in amount five per cent. of the school money for the district, notify the superintending school committee of the commencement of the summer and winter school and give them all such information and assistance as may be necessary for the performance of their duties. (*R. S., chap. 70, sec. 10.*)

SEC. 13. If any member of the prudential committee is incompetent or irresponsible, or mismanages the affairs of the district, the selectmen on the petition of one fourth the legal voters of the district may dismiss him from office, and cause him to be notified of such dismissal by giving to him in hand or leaving at his usual place of abode in such district a written notice thereof. (*R. S., chap. 70, sec. 11.*)

SEC. 14. Whenever the selectmen of any town shall be applied to, to dismiss any member of any prudential committee of any school district in said town, under said section [the thirteenth section of this chapter] (*Sec. 11, chap. 70, R. S.*) they shall thereupon assign a time and place of hearing, require of the petitioners a specification of charge, and shall cause a notice of the time and place of hearing, together with a copy of said specification, to be served on the party accused, at least four days before the time of hearing, by giving the same to him in person, or leaving the same at his usual place of abode in said town. (*Laws of 1846, chap. 319, sec. 1.*)

SEC. 15. On such hearing, the parties and witnesses may be examined by said selectmen on oath; and if on such hearing the selectmen shall be of opinion that the party accused is incompetent, irresponsible or mismanages the affairs of the district, they shall dismiss him—otherwise not. (*Laws of 1846, chap. 319, sec. 2.*)

SEC. 16. Whenever ten legal voters in any school district in any of the towns or cities within this State shall, in writing, and thirty days before the annual meeting in such district, apply to any one of the committee having charge of the prudential affairs of such district, requesting that a check list of the voters of such district may be used at such annual meeting, it shall be the duty of such committee to make and post up and correct a list of all the legal voters in their respective districts, in the same way and man-

ner that selectmen of towns are now required to do in regard to check lists in their respective towns; and the check lists in said districts so made out, posted up and corrected, shall be used and checked at said annual meeting, whenever a ballot is taken, in the same way and manner as is now required by law in the election of state officers. (*Laws of 1851, chap. 1118, sec. 1.*)

SEC. 17. Any school district in any town or city within this State at any annual meeting thereof, may by a major vote adopt this act, [the sixteenth section of this chapter] and when so adopted it shall be thereafterwards in force in such school district so adopting the same, without said written application provided in said sixteenth section. (*Laws of 1851, chap. 1118, sec. 2.*)

CHAPTER 75.

OF SCHOOL HOUSES.

COMPILED FROM

Chapter 71 of the Revised Statutes.

"	148,	Laws of 1844.
"	224,	" " 1845.
"	223,	" " 1845.
"	729,	" " 1848.
"	853,	" " 1849.
"	1286,	" " 1852.

SECTION

1. School houses, how erected, repaired and furnished.
2. If voters aggrieved, remedy.
3. Proceedings on such hearing.
4. Costs, how allowed.
5. If districts do not agree on location.
6. If districts destitute, remedy.
7. If lot cannot be purchased, remedy.

SECTION

8. Proceedings recorded by selectmen.
9. Taxes, how assessed.
10. New invoice in certain cases.
11. Taxes of non-residents.
12. Districts, powers to build two or more school houses, notice of meeting, &c.
13. Three or more voters aggrieved, remedy.

SECTION 1. At any meeting legally holden for the purpose, any district may vote to build, purchase, repair, alter or remove a school house in and for such district and other necessary buildings therefor, and to furnish the same with all necessary apparatus and furniture for the use of the school therein; may decide upon the location thereof and purchase land therefor not exceeding one acre, may choose committees with powers to carry said votes into effect, and may raise money therefor. (*R. S., chap. 71, sec. 1, amended by laws of 1845, chap. 224.*)

SEC. 2. If any three or more voters in such district are aggrieved by such location, they may apply by petition to the selectmen, who, if they think expedient, shall appoint a committee of three or five qualified voters of the town not resident in the district, to examine and report thereon. (*R. S., chap. 71, sec. 2.*)

SEC. 3. Said committee shall appoint a time and place of hearing said petition, and shall notify one or more of said petitioners, and also the prudential committee or clerk of the district thereof, and after such hearing, their report thereon, signed by them, returned to the selectmen and recorded in the books of the town, shall be binding upon said district as if such new location had been made by a vote of the district. (*R. S., chap. 71, sec. 3.*)

SEC. 4. If such location is changed, costs shall be taxed by the committee in favor of the petitioners for the reasonable expenses of the committee and of the petitioners, which shall be paid by the district; if the location is not changed, the expenses of the committee shall be paid by the petitioners. (*R. S., chap. 71, sec. 4.*)

SEC. 5. If at any meeting the district do not agree upon a location for a school house, the selectmen upon the petition of three or more voters in the district shall appoint a time and place of hearing thereon, notify one or more of the petitioners and the prudential committee or clerk of the district thereof, and after such hearing, their report designating a location, which shall be recorded in the books of the town, shall be binding upon such district as if made by a vote thereof. (*R. S., chap. 71, sec. 5.*)

SEC. 6. If any district is destitute of a school house, or suffers the same to be out of repair, or shall be ordered to remove or fit up the same, or to raise any sum of money or do any act required by law, and shall neglect so to build, repair, remove, or fit up such school house, or raise such sum or do such act, the selectmen upon the petition of three or more voters resident in the district, stating such facts, may assess and collect such sum of money as may be necessary, and cause such house to be built, removed, repaired or fitted up, such moneys to be expended and such orders to be executed in such manner as they shall think expedient. (*R. S., chap. 71, sec. 6.*)

SEC. 7. If a suitable place for the location of a school house is designated in either of the ways aforesaid, and the owner shall refuse to sell the same for a reasonable price, the selectmen upon petition therefor may lay out said lot not exceeding one half of an acre, if in the opinion of the selectmen so much is needed for that purpose, and appraise the damages to the owner, and the proceedings thereon for obtaining increased damages in case the owner is dissatisfied shall be the same as in case of a highway laid out by the selectmen. (*R. S., chap. 71, sec. 7, amended by laws of 1849, chap. 853.*)

SEC. 8. A record of the doings of the selectmen shall be made by them in the books of the town, and upon payment or tender of

the damages so assessed by the selectmen, the land so laid out shall vest in said district, but shall revert to the owner whenever the district shall vote to discontinue the use thereof, or shall neglect to use the same for two years successively. (*R. S., chap. 71, sec. 8.*)

SEC. 9. For the purposes aforesaid every person shall be taxed in the district in which he lives, for his poll and all the personal estate which he holds in the town, and all real estate in the town shall be taxed in the district in which it is. (*R. S., chap. 71, sec. 9.*)

SEC. 10. The selectmen, in the several towns and places in this State, when, for the purpose of building and repairing school houses, it shall become necessary, are hereby authorized to make a new invoice of all the property in such district, for the purpose of making just assessment of the taxes necessary for such purposes. (*Laws of 1844, chap. 148, sec. 1.*)

SEC. 11. When any tax shall be assessed on any non-resident proprietors or owners of property, liable by law to be assessed, for the purpose of purchasing any school house, or for the erection or repair of any such house, after the first day of July in any year, a certified copy of the list of such taxes, as assessed by the selectmen and as delivered to the collector, shall by such collector be delivered to the deputy secretary, on or before the eighth day of the next succeeding June session of the general court, and all such proceedings shall be had in relation to the same, as are now had in the payment and collection of non-resident taxes that may be otherwise assessed. (*Laws of 1844, chap. 148, sec. 2.*)

SEC. 12. Any school district, at a legal meeting holden for that purpose, may, by two thirds of the legal voters of such district present at said meeting, vote to build, purchase, alter, repair or remove two or more school houses in and for such district, and other necessary buildings therefor, and to furnish the same with all necessary apparatus and furniture; may decide upon the location of such houses, and purchase land therefor, and may raise money for that purpose: *provided*, that if each legal voter in said district has been served with a written or printed notice of the time, place and objects of said meeting at least seven days prior thereto, in such case a majority of the voters present and voting at said meeting shall have power to bind the district to the performance of the objects contemplated in this act, (this section.) (*Laws of 1852, chap. 1286.*)

SEC. 13. If any three or more legal voters in such district are aggrieved by the location of either of the school houses therein, they may apply by petition to the selectmen of the town where such school houses are located, who may proceed thereon according to the provisions of chapter seventy-one of the revised statutes, (this chapter.) (*Laws of 1848, chap. 729, sec. 2.*)

CHAPTER 76.

OF ASSESSMENT AND APPORTIONMENT OF THE SCHOOL TAX.

COMPILED FROM

Chapter 72 of the Revised Statutes.

" 705, Laws of 1848.

" 1300, " " 1852.

" 1308, " " 1852.

SECTION

1. School tax, amount and assessment.
2. Town may raise more money.
3. Appropriation of money.
4. Money to be assigned.
5. Where guardian and ward both reside in same town, ward's tax to

SECTION

- be assigned to his district.
6. Neglect of selectmen, penalty.
7. Neglect of committee, penalty.
8. School, where to be kept.
9. Portsmouth, &c., excepted.

SECTION 1. The selectmen in each town shall assess annually upon the polls and ratable estate by law taxable therein, a sum to be computed at the rate of one hundred and thirty-five dollars for every dollar of the public taxes apportioned to such town, and so for a greater or less sum. (*Laws of 1852, chap. 1300.*)

SEC. 2. The town at any legal meeting for the purpose may raise a sum exceeding the amount aforesaid, which shall be assessed in the same manner. (*R. S., chap. 72, sec. 2.*)

SEC. 3. Such sum when collected shall be appropriated to the sole purpose of keeping an English school or schools within such town for teaching reading, writing, English grammar, arithmetic, geography, together with such other branches of English education as are adapted to the advancement of the school, including the purchase of necessary fuel for the school and occasional repairs as specified in this title. (*R. S., chap. 72, sec. 3.*)

SEC. 4. The selectmen shall assign to each district a proportion of the money thus assessed, according to the valuation of the district for the year or in such other manner as the town at the annual meeting shall direct, and shall pay over the same to the prudential committee of the district. (*R. S., chap. 72, sec. 4.*)

SEC. 5. It shall be the duty of the selectmen in all cases when the guardian and ward reside in the same town, to assign the tax assessed upon the ward's personal property to the school district in which the ward lives and has his home. (*Laws of 1852, chap. 1308.*)

SEC. 6. If the selectmen of any town neglect to assess or assign or pay over the school money as aforesaid, they shall forfeit and pay for each neglect a sum equal to that so neglected to be assessed, or assigned or paid over, which shall be for the use of

the district aggrieved thereby, and may be recovered by action of debt in the name of such district by the prudential committee. (*R. S., chap. 72, sec. 5.*)

SEC. 7. If the money so assigned and paid over to the prudential committee of any district, shall be by him not expended according to law, he shall forfeit for each offence a sum not less than the sum so unexpended or not expended legally, and not exceeding twice said sum, to be recovered by indictment or by information; the cost to be paid to the county treasurer and the penalty to be paid to the selectmen for the use of the district. (*R. S., chap. 72, sec. 6.*)

SEC. 8. It shall be unlawful to keep a district school in any other place than in the school house belonging to the district, unless there be no school house, or the school house be out of repair or not of sufficient size to accommodate the scholars; in which cases the prudential committee may, with the consent and approbation of the selectmen, provide suitable rooms and conveniences for the use of the school at the expense of the district. (*R. S., chap. 72, sec. 7.*)

SEC. 9. The town of Portsmouth and such other towns as legally adopt the provisions of the chapter of this title made for the town of Portsmouth, are exempted from the operation of the foregoing provisions so far as the same relate to the mode of appropriation and expenditure of said school money. (*R. S., chap. 72, sec. 8.*)

CHAPTER 77.

OF THE REGULATION, INSTRUCTION AND INSPECTION OF SCHOOLS.

COMPILED FROM

Chapter 73 of the Revised Statutes.

"	225,	Laws of 1845.
"	226,	" " 1845.
"	317,	" " 1846.
"	854,	" " 1849.
"	983,	" " 1850.
"	1117,	" " 1851.
"	1129,	" " 1851.
"	1229,	" " 1852.
"	1304,	" " 1852.

SECTION

1. Superintending committee appointed.
2. Duties of such committee.
3. To dismiss teachers incompetent.

SECTION

4. To dismiss disobedient scholars.
5. Scholars dismissed, penalty for interrupting school.

SECTION

6. Scholars may be classified.
7. Where scholars may attend school.
8. Masters to be examined.
9. Mistresses to be examined.
10. Not to be paid unless, &c.
11. When districts united in two towns, teacher may procure certificate of committee in either.
12. Class books, how determined.
13. Sectarian books prohibited.

SECTION

14. Poor children to be furnished.
15. Superintending committee of towns and the mayor and aldermen of any city to furnish books to poor children in certain cases.
16. Report of superintending committee.
17. Compensation of committee.
18. Committee, when paid.
19. Teachers, when paid.
20. Virtues to be inculcated.

SECTION 1. Each town shall annually in the month of March elect by ballot a superintending school committee consisting of one or three persons as the towns may elect, and whenever any town shall neglect to choose such committee as aforesaid, the selectmen shall before the twentieth of April appoint said committee. (*R. S., chap. 73, sec. 1, amended by laws of 1851, chap. 1129.*)

SEC. 2. It shall be the duty of said committee to examine every person proposing to teach any district school in such town; to visit and inspect every school at least twice in each year; to inquire into the regulation and discipline thereof and suggest any necessary alterations; to examine the proficiency of the scholars and to use their influence that all the youth of each district attend and profit by the school therein. (*R. S., chap. 73, sec. 2.*)

SEC. 3. The superintending school committee, upon petition of a majority of the legal voters in any district for the dismissal of a teacher, shall appoint a time and place of hearing, and notify the parties of said time and place, by causing a notice thereof in writing, signed by at least two of said committee, to be given to the teacher personally, and a like notice to be posted on the school house in said district at least twenty-four hours before said time of hearing; and, after such hearing, shall have power to dismiss the teacher or not, as in their judgment will best promote the interests of the district; and they shall dismiss every teacher who is unfit to teach, notwithstanding a certificate has been given, and such teacher shall be entitled to compensation until such dismissal, but no longer. (*Laws of 1845, chap. 225.*)

SEC. 4. Such committee may, upon application of the teacher or any inhabitant of the district, dismiss any scholar from the school who will not conform to the reasonable regulations of the school; and it shall be unlawful for such scholar to return to or remain in said school until restored by the teacher or by the superintending school committee. (*R. S., chap. 73, sec. 4.*)

SEC. 5. If any person who shall have been dismissed from any school by the superintending school committee, agreeably to the provisions of the fourth section of this chapter, shall attend said school or visit the same, or in any way interrupt or disturb the same, (unless he shall have been first restored by the committee,) he shall for the first offence forfeit the sum of five dollars, and for

the second offence he shall forfeit the sum of ten dollars, and for the third offence he shall be imprisoned in the county jail for a term not less than ten days nor more than thirty days. (*Laws of 1849, chap. 854.*)

SEC. 6. When the number of scholars in any district amounts to fifty or more, such district at a meeting legally holden for that purpose, by a vote of three fourths of the legal voters present may divide said scholars into two or more divisions according to age or acquirements, or both, and may direct under what teacher each division shall be instructed; and when any school district in this State shall neglect or refuse to divide the scholars as aforesaid, the superintending school committee of said town shall on the petition of ten or more legal voters in said district divide said scholars as aforesaid, if in their opinion it is necessary. (*R. S., chap. 73, sec. 6, amended by laws of 1850, chap. 983.*)

SEC. 7. No person shall have a right to send to or receive any benefit from any school in a district in which he is not a resident, without the consent of such district. (*R. S., chap. 73, sec. 7.*)

SEC. 8. No person shall be employed as a school master unless he is a citizen of the United States, and shall produce a certificate from the superintending school committee of the town where such school is to be kept, that he is well qualified to instruct youth in the various branches required to be taught in an English school in this State, and produce satisfactory evidence of his good moral character. (*Sec. 8.*)

SEC. 9. No person shall be employed as a school mistress unless she shall produce a certificate from the superintending school committee of the town where the school is to be kept, that she is suitably qualified to teach the English language grammatically, and the rudiments of arithmetic and geography, and shall produce satisfactory evidence of her good moral character. (*Sec. 9.*)

SEC. 10. The district shall be liable for the wages of the teacher and for all contracts lawfully made by the prudential committee; but no person shall receive any compensation for teaching a district school without producing to the prudential committee the certificate by this chapter required. (*Sec. 10.*)

SEC. 11. Whenever two or more school districts in different towns are united for the purpose of schooling, it shall be competent for the teacher to procure the certificate of the superintending school committee of either town. (*Laws of 1851, chap. 1117, sec. 1.*)

SEC. 12. The superintending school committee shall determine and direct the class books to be used in the district schools of the town, and the parents, masters or guardians of the scholars attending such schools, shall supply scholars with the books so directed to be used. (*R. S., chap. 73, sec. 11.*)

SEC. 13. No book shall be directed to be used as a school book which is calculated to favor any particular religious or political sect or tenet. (*Sec. 12.*)

SEC. 14. If any poor child attending any district school is destitute of necessary class books, the selectmen shall provide such books at the expense of the town upon application therefor. (*Sec. 13.*)

SEC. 15. Whenever it shall come to the knowledge of the superintending school committee of any town, or to the knowledge of the mayor and aldermen of any city in this State, that any child attending any district school is destitute of the necessary text books, and is poor and unable to procure the same, it shall be the duty of said committee of any town, and the mayor and aldermen of any city in this State, to furnish the same forthwith at the expense of said town or city. (*Laws of 1852, chap. 1229, as amended by laws of 1852, chap. 1304.*)

SEC. 16. The superintending school committee shall make out annually a report, and present the same to the town at its annual meeting, stating the number of weeks which the public schools have been kept in each district in summer and in winter, and what portion thereof has been kept by male and what portion by female teachers; the whole number of scholars that have attended each school; the progress made in each school in the various branches of learning; the number of children between the ages of four and fourteen years in each district that have not attended school therein; and the number of persons in each district between the ages of fourteen and twenty-one years who cannot read and write, with such suggestions as may be useful upon the management of schools and the subject of education. (*R. S., chap. 73, sec. 14.*)

SEC. 17. Such committee shall receive from the town a reasonable compensation for all services required by law to be performed by them. (*Sec. 15.*)

SEC. 18. The superintending school committee shall receive no compensation for their services until they shall have satisfied the selectmen that they have attended to the duties and made the reports by law required of them; and no prudential committee shall be authorized to receive the school money from the selectmen until such committee shall have caused to be presented to said selectmen the certificate required by law in reference to the qualifications of teachers by him employed. (*Laws of 1846, chap. 317, sec. 1.*)

SEC. 19. It shall be the duty of every teacher of a public school to make, at the close thereof, a report to the superintending committee of the town, of the number of scholars, male and female, that have attended; the branches of learning taught and the progress made. And no teacher shall be entitled to pay for his services until this provision has been complied with. (*Laws of 1846, chap. 317, sec. 2.*)

SEC. 20. It shall be the duty of all persons entrusted with or engaged in the instruction of the young, diligently to impress upon their minds the principles of piety and justice; a sacred regard to truth, love of country, humanity and benevolence; sobriety,

industry and frugality; chastity, moderation and temperance; and all other virtues which are the ornament and support of human society; and to endeavor to lead them into a particular understanding of the tendency of all such virtues to preserve and perfect a republican form of government, to secure the blessings of liberty and to promote their future happiness, and the tendency of the opposite vices to degradation, ruin and slavery. (*R. S., chap. 73, sec. 16.*)

CHAPTER 78.

OF TRUANT CHILDREN AND ABSENTEES FROM SCHOOL.

IDENTICAL WITH
Chapter 1278, Laws of 1852.

SECTION

1. Towns empowered to make all needful arrangements in relation to truants, &c.; powers described.
2. Officers, how appointed; duties defined.
3. Minors between the ages of six and sixteen may be committed to house of instruction, reformation, or other place, &c.

SECTION

4. Minors unable to pay fine may be discharged in certain cases.
5. Fine may be remitted by giving bond to attend school, paying costs, &c.
6. Act to be in force in such towns and cities as adopt it.

SECTION 1. Each of the several cities and towns in this State be and they hereby are authorized and empowered to make all needful provisions and arrangements concerning habitual truants and children not attending school, without any regular and lawful occupation, growing up in ignorance, between the ages of six and sixteen years; and also all such ordinances and by-laws respecting such children, as shall be deemed most conducive to their welfare and the good order of such city or town; and there shall be annexed to such ordinances suitable penalties, not exceeding for any one breach a fine of ten dollars: *provided*, that said ordinances and by-laws shall not be repugnant to the laws of this State.

SEC. 2. The several cities and towns availing themselves of the provisions of this act may appoint, in the same manner that other officers are appointed by said city or town, three or more persons, who alone or any one of whom, shall be authorized to make the complaints in every case of violation of said ordinances or by-laws to the justice of the peace or other judicial officer who by said ordinance shall have jurisdiction of the matter, which persons, or one of them, shall alone have authority to carry into ex-

ecution the judgments of said justice of the peace or other judicial officer.

SEC. 3. Any minor between the ages of six and sixteen years, convicted under the provisions of this act, of being an habitual truant, or of not attending school, or of being without any regular and lawful occupation, or growing up in ignorance, may at the discretion of the justice of the peace or judicial officer having jurisdiction of the case, instead of the fine mentioned in the first section, be committed to any said institution of instruction, house of reformation, or suitable situation as may be provided for the purpose under the authority given in said first section, for such time as such justice or judicial officer may determine, not exceeding one year.

SEC. 4. Any minor convicted of either of said offences, and sentenced to pay a fine as provided in the first section, may in default of payment thereof be committed to said institution, house of reformation, or suitable situation provided as aforesaid, or to the county jail, as provided in the case of non-payment of other fines. And upon proof that said minor is unable to pay said fine, and has no parent, guardian or person chargeable with his support, able to pay the same, he may be discharged by said justice or judicial officer, whenever he shall see fit.

SEC. 5. If any minor convicted of any offence mentioned in the foregoing act, shall, within twenty-four hours after said conviction and sentence, give a bond to said town or city in the penal sum of twenty-five dollars, with good and sufficient sureties, to be approved by said justice or other judicial officer before whom said minor was convicted, that he will attend some district or other school, in said town or city for one term that the same shall be in operation next after said conviction and sentence, that he will voluntarily comply with all the regulations of said school, and will be regular and constant in his attendance upon the same, except in case of ill health, and will at all times be obedient and respectful to the teacher, said justice or other judicial officer shall have power, upon the payment of all costs, and upon the filing of said bond as aforesaid, to remit said fine.

SEC. 6. This act shall take effect and be in force in such towns only as shall at some legal meeting adopt the same, and in such cities as shall by their city government adopt the same, and make such ordinances and by-laws as may be necessary to enforce its provisions.

CHAPTER 79.

OF HIGH SCHOOLS.

COMPILED FROM

Chapter 220, Laws of 1845.

" 718, " " 1848.

" 729, " " 1848.

SECTION

1. Districts may unite and form high schools.
2. United districts made corporations.
3. Officers, how appointed.
4. Powers of associated districts.
5. School money, how assigned.
6. What branches of education to be taught.
7. Associated districts may raise money.
8. Act not in force unless adopted by the town.
9. Any school district may adopt the Somersworth act.

SECTION

10. Superintending school committee, how appointed.
11. Districts containing 100 scholars may maintain high schools.
12. School meetings to be held in March.
13. Manner of calling meetings.
14. If prudential committee neglect.
15. District of 100 scholars may adopt chapter 81.
16. Selectmen to assess taxes.
17. Selectmen to lay out land for school house.

SECTION 1. Any two or more contiguous school districts, in any town or towns in this State, may associate together and form a union for the purpose of establishing and maintaining a high school or high schools, for the instruction of the older and more advanced scholars belonging to the several associated districts; but no vote of any district to associate with another or others, shall be valid unless passed by two-thirds of the voters present at a legal meeting called and holden for that purpose. (*Laws of 1845, chap. 220, sec. 1.*)

SEC. 2. When a union shall have been so formed, the associated districts shall be a body politic and corporate, under the name of the high school associated districts of — (the town in which they may be,) and shall have, possess, and enjoy all the powers and privileges conferred, and be subject to all the duties and liabilities imposed on school districts by the general laws of the State, except as herein otherwise provided; and all laws in relation to calling meetings in school districts, and the officers thereof, and their duties, shall be taken and deemed to be applicable to calling meetings in high school associated districts, and to choosing officers thereof, and their duties, except as is herein otherwise provided. (*Laws of 1845, chap. 220, sec. 2.*)

SEC. 3. The officers of high school associated districts shall be a moderator, clerk and prudential committee. The several prudential committees of the districts so associated, shall be members

of and constitute the prudential committee of the high school associated districts; but if in any district the prudential committee shall consist of more than one person, then the chairman only of such committee shall be a member of the prudential committee of the high school associated districts. Said last mentioned committee shall have power to determine the age and qualifications of the scholars who may attend the high school or high schools, employ teachers, and make rules and regulations for the studies and discipline of such school or schools, which shall not, however, be in force until approved by the superintending school committee of the town. (*Laws of 1845, chap. 220, sec. 3.*)

SEC. 4. All high school associated districts shall have power to purchase land for building school houses thereon; to build school houses and other necessary buildings, to remove, alter, repair and furnish the same; to hire school houses or other buildings, or rooms for keeping a high school or schools therein, and to raise money for the several purposes aforesaid. And the mode directed by the laws in force to be pursued to raise and collect money in school districts for building school houses, shall be pursued in raising and collecting money for the above purposes in high school associated districts. (*Laws of 1845, chap. 220, sec. 4.*)

SEC. 5. A portion of the school money assigned by the selectmen to each of the school districts so associated, not exceeding one fourth part of the same, shall be appropriated to the maintenance of said high school or high schools, and shall be paid to the prudential committee of the high school associated districts. And said committee, in conjunction with the superintending school committee of the town, shall annually determine what portion of said school money shall be appropriated and paid, which determination shall be in writing and recorded. (*Laws of 1845, chap. 220, sec. 5.*)

SEC. 6. The teacher of every high school shall be competent to instruct in all the branches of English education prescribed to be taught in common schools, and shall be also competent to teach history, philosophy, chemistry, botany, book keeping, surveying, geometry, algebra, logic and rhetoric, all which branches, and also the ancient and modern languages, may be taught in such high schools. (*Laws of 1845, chap. 220, sec. 6.*)

SEC. 7. The said high school associated districts may raise money to be appropriated exclusively to paying, in part, the salaries of the teachers of the high schools therein; the same proceedings being had which are prescribed by law for raising and collecting money to build school houses; but no vote to raise money for that purpose shall be valid unless passed by two thirds of the voters present. (*Laws of 1845, chap. 220, sec. 7.*)

SEC. 8. This act (the seven preceding sections) shall apply to such towns only as, at any meeting duly notified and held for that purpose, shall have adopted its provisions; an article being inserted for that purpose in the warrant for said meeting. (*Laws of 1845, chap. 220, sec. 8, amended by laws of 1852, chap. 1231.*)

SEC. 9. The provisions of the act passed June nineteenth, A. D., eighteen hundred and forty-eight, entitled an act relating to school district number three in Somersworth, (chapter eighty-one of this compilation,) are hereby extended and made applicable to all school districts which may adopt said act at legal meetings held for that purpose, and all the authority and power given in and by the said act to school district number three in Somersworth, are hereby conferred upon any school district which may adopt the same. (*Laws of 1848, chap. 718, sec. 1.*)

SEC. 10. Any school district which may adopt the said act (chapter eighty-one of the compilation,) may elect their own superintending committee at any legal meeting held for that purpose in the month of March annually, and in case such committee shall not be chosen by the district, then the selectmen of the town in which such district may be located, shall appoint a special superintending school committee for said district. (*Laws of 1848, chap. 718, sec. 2.*)

SEC. 11. When the number of scholars in any school district shall exceed one hundred, such district may vote to keep such high school or schools therein as the interests of education may require. This act (this section) shall not be so construed as to limit or impair the powers conferred on school districts by an act entitled "an act to empower school districts to establish and maintain high schools," approved December 19, 1848. (*Sections 9 and 10 of this chapter.*) (*Laws of 1848, chap. 729, sec. 3 and 4.*)

SEC. 12. In those towns which have adopted or shall adopt the provisions of chapter seventy-four of the revised statutes, in relation to schools in the town of Portsmouth, (the three first and eleven last sections of chapter eighty of this compilation,) there shall be in each school district a meeting of the inhabitants of said district, qualified to vote in town affairs, holden annually in the month of March, for the choice of school committee, and to transact the other business of said district; and the prudential committee of said district shall issue their warrant, stating the time, place and purposes of such meeting, directed to one of the constables of said town, requiring him to notify said meeting. (*Laws of 1846, chap. 320, sec. 1.*)

SEC. 13. The constable to whom said warrant is directed, shall notify said meeting by posting up a copy of said warrant, attested by himself, at least seven days prior to said meeting, in one or more public places in said district, and shall make a return of his doings therein to the secretary of said district on the day of said meeting; and said secretary shall record the same in the records of said district. Special meetings may be called at any time in the same manner. (*Laws of 1846, chap. 320, sec. 2 and 3.*)

SEC. 14. If the prudential committee shall neglect to warn such annual meeting on or before the fifteenth day of March, or shall neglect, for the space of ten days, after application made in writing by ten or more voters of the district, to call any such spe-

cial meeting, any justice of the peace in such town upon a like application, may call such annual or special meeting, by issuing his warrant and causing a copy thereof to be posted up, as herein before prescribed. (*Laws of 1846, chap. 320, sec. 4.*)

SEC. 15. Any school district having one hundred scholars or more, which has adopted or may hereafter adopt the act relating to school district number three in Somersworth (chapter eighty-one of this compilation) shall be authorized at the annual meeting or at any other meeting held for that purpose, to raise such sum of money as they may deem necessary for the support of a high school in such district. (*Laws of 1850, chap. 989, sec. 1.*)

SEC. 16. It shall be the duty of the selectmen of the town in which such district is located, seasonably to assess the tax aforesaid upon the inhabitants and estates in such district, in the same manner as school house taxes are raised, and cause the same to be collected and paid over to the prudential committee of such district. (*Laws of 1850, chap. 989, sec. 2.*)

SEC. 17. Whenever the location for the school house and other buildings for the use of the high school shall have been fixed upon agreeably to the provisions of the seventy-first chapter of the revised statutes, (seventy-five of this compilation) and the owner of the land shall refuse to sell the same for a reasonable price, the selectmen shall have power to lay out the same, not exceeding one half acre of land, in the manner prescribed in the seventh section of said seventy-first chapter, (seventy-five of this compilation.) (*Laws of 1850, chap. 989, sec. 3.*)

CHAPTER 80.

OF SCHOOLS IN THE TOWN OF PORTSMOUTH.

COMPILED FROM

Chapter 74 of the Revised Statutes.

" 497, Laws of 1847.

SECTION

1. High schools to be kept.
2. Prudential committee, how chosen.
3. Prudential committee, duties.
4. To have charge of high schools.
5. To provide teachers, &c.
6. Vacancies, how filled.
7. Report to be made.
8. Scholars for high school selected.

SECTION

9. Qualifications of teachers.
10. Class books, how determined.
11. Money, how apportioned.
12. Town may raise more money.
13. Neglect of selectmen to assess, &c., penalty.
14. General school laws in force.
15. Any town may adopt.

SECTION 1. There shall be kept and maintained in the town of Portsmouth, in addition to the district schools, at least two high

schools, one for males and the other for females, in which shall be taught all the branches usually taught in an English grammar school, with such additional branches as the town may direct. (*R. S., chap. 74, sec. 1.*)

SEC. 2. The prudential committee of each district shall consist of three or more persons, to be chosen by ballot by the district, the first named of whom shall be chairman, and to hold their office until the next annual meeting and until others are chosen and qualified in their stead. (*R. S., chap. 74, sec. 2.*)

SEC. 3. They shall perform all the duties of the superintending school committee as well as of a prudential committee, except as herein after specified, and shall determine and direct what class books shall be used in their respective district schools, which shall be furnished by the parents, master or guardian of any child attending said school. (*R. S., chap. 74, sec. 3.*)

SEC. 4. The prudential committee of the several school districts in the town of Portsmouth shall together constitute a superintending committee, of which the chairman of the prudential committee in district number two shall be chairman, and shall possess and exercise all the powers given by law to superintending school committees in other towns in this State, so far as relates to determining and directing the class books to be used in the district schools. (*Laws of 1847, chap. 497.*)

SEC. 5. They shall examine and contract with the teachers of the high schools, fix and pay their salaries, provide all necessary fuel and apparatus for the schools, receive and appropriate the money assigned to such schools, regulate the admission of scholars, prescribe the class books to be used, and transact all other business relating to the government of said schools. (*R. S., chap. 74, sec. 5.*)

SEC. 6. If there shall be a vacancy in either of said committees either from neglect to choose or any other cause, the selectmen shall immediately fill such vacancy. (*R. S., chap. 74, sec. 6.*)

SEC. 7. Each prudential committee and the high school committee shall annually, on or before the first day of March, make a report of their doings to the selectmen, containing an account of their receipts and expenditures for the year, the number of scholars under their control, the number of pupils of each sex belonging to each school, the average number of each sex attending school, their ages, the various branches of study taught in each school, and the number of scholars in each branch and such other matters as may serve to present a general view of the condition of each school; and the selectmen shall lay such reports before the town at its annual meeting. (*R. S., chap. 74, sec. 7.*)

SEC. 8. Said high schools shall be for the common benefit of all the districts of said town, and each district may send an equal proportion of scholars possessing the requisite qualifications, to each of the high schools, under such regulations as may from time to time be established by the high school committee, and this pro-

portion shall be determined as nearly as may be by the number of pupils attending school in each district. (*R. S., chap. 74, sec. 8.*)

SEC. 9. No person shall be employed as a teacher in either of said high schools who is not qualified to teach English grammar, book-keeping, geometry, surveying, navigation, mensuration, algebra, astronomy and natural history, beside the qualifications required of teachers of district schools. The town or the high school committee may require such additional qualifications as they shall think expedient. (*R. S., chap. 74, sec. 9.*)

SEC. 10. The high school committee shall determine and direct what class books shall be used in the several high schools, which shall be furnished by the parents, master or guardian of every child attending said school. (*R. S., chap. 74, sec. 10.*)

SEC. 11. The selectmen shall annually assign and pay over to the high school committee such portion of the school money as they shall think sufficient for the support of said schools, or as the town shall direct, and shall assign and pay over the balance to the several district committees as nearly as may be in proportion to the number of scholars in each district respectively. (*R. S., chap. 74, sec. 11.*)

SEC. 12. Said town at its annual meeting or at any meeting called for that purpose, shall raise so much money as is necessary for erecting, enlarging, repairing, purchasing, removing or hiring school houses and other buildings for the accommodation of the schools therein, with necessary furniture and apparatus, and the selectmen shall assess such sum upon the polls and ratable estates within the town, and shall cause the same to be collected like other town taxes, and shall appropriate the same for the purposes for which it was raised. (*R. S., chap. 74, sec. 12.*)

SEC. 13. If the selectmen shall neglect to assess, collect, apportion, pay over or appropriate any sum of money in the manner prescribed by law, or if either of the committees aforesaid shall neglect so to appropriate or shall misappropriate the same, the person so offending shall be liable to the same penalty provided in case of neglect of selectmen to assess and apportion school money. (*R. S., chap. 74, sec. 13.*)

SEC. 14. All the provisions contained in the general laws of this State relating to schools, shall be in force in the town of Portsmouth, except so far as the same are herein modified or rescinded. (*R. S., chap. 74, sec. 14.*)

SEC. 15. Any town at its annual meeting or at any meeting lawfully called for the purpose, may adopt the provisions of this chapter, which shall therein extend and apply to such town as fully as to the town of Portsmouth. (*R. S., chap. 74, sec. 15.*)

CHAPTER 81.

OF HIGH SCHOOL IN THE TOWN OF SOMERSWORTH.

IDENTICAL WITH
Chapter 631, Laws of 1848.

SECTION

1. Selectmen to appoint superintending school committee.
2. Powers and duties of said committee.
3. High schools may be established.
4. S. S. committee to divide scholars into classes and prescribe their qualifications.

SECTION

5. District may purchase land.
6. District may hire money.
7. General laws relating to schools, inconsistent with this act, not in force in district.
8. Time act takes effect.

SECTION 1. The selectmen of the town of Somersworth shall annually, on or before the twentieth day of April, appoint a superintending school committee for school district number three in said town, consisting of not less than five nor more than seven, all resident in said district, who shall hold their offices for one year and until others are appointed in their place, and when any vacancy may occur in said committee, the same may at any time be filled by appointment by the selectmen.

SEC. 2. Said committee shall choose a chairman and secretary, and shall be invested with all the powers and perform all the duties in said district that superintending school committees are authorized or required to perform in towns, by virtue of any laws now existing, or which may from time to time exist in relation to superintending committees of town schools. They may appoint subcommittees from their own board, and prescribe their powers and duties, and may adopt by-laws for their own government and for regulating the schools in said district.

SEC. 3. There may be kept and maintained in said district one or more high schools, in which may be taught all the branches usually taught in English grammar schools, and such additional branches as the superintending committee may direct; and the teachers of such high schools shall be qualified to instruct youth in the various branches required to be taught in English grammar schools, together with such additional branches as the superintending committee shall direct to be taught in such high schools.

SEC. 4. The said superintending committee shall divide the scholars in said district into such divisions and classes, according to location or acquirements, or both as they may consider judicious, and shall direct what school each class or division shall attend, shall prescribe the qualifications necessary for admission into the high schools, and regulate the transfer of scholars from one school to another.

SEC. 5. Said district is hereby authorized to purchase and hold such quantity of land for school house lots, not exceeding three acres in any one lot, and erect such school houses thereon, as may be determined on by vote of the district.

SEC. 6. Whenever the cost of erecting any school house shall exceed two thousand dollars, including the cost of the lot, said district may hire the excess above said two thousand dollars on the district's note, signed by the prudential committee, or any other persons or committee authorized by vote of said district; and the sum so hired with interest thereon, may be assessed and collected in future years, as said district may by vote determine.

SEC. 7. Any provision contained in the general laws of this State, relating to schools, which may be inconsistent with the provisions of this act, shall not be in force in said district after the time when this act shall take effect therein.

SEC. 8. This act shall be in force from its passage, but shall not take effect in said district until adopted by a vote thereof, at a meeting called for that purpose.

CHAPTER 82.

OF COMMISSIONERS OF COMMON SCHOOLS.

COMPILED FROM

Chapter 955, Laws of 1850.

" 1102, " " 1851.

" 1251, " " 1852.

SECTION

1. County school commissioners to be appointed.
2. County school commissioners to meet in Concord.
3. Superintending school committees to make returns.
4. Penalty for not making returns.
5. Penalty for neglect of superintending school committee to make returns.
6. Duty of commissioners.
7. Board of education to make report.

SECTION

8. Compensation of commissioners.
9. Salaries, when paid.
10. Commissioners to be compensated for stationery, &c.
11. Additional compensation of commissioners.
12. Compensation of secretary.
13. Commissioners not to act as agents for books, &c.
14. Commissioners' services, when to commence.

SECTION 1. The governor and council shall annually appoint a commissioner of common schools in each county of this State, who shall hold his office one year from the fifteenth day of July. (*Laws of 1850, chap. 955, sec. 1.*)

SEC. 2. The several county commissioners shall meet in Con-

cord, at the capitol of this State, on the third Wednesday of August, and shall in their associated capacity constitute a board of education, with the power of choosing a chairman and secretary; and shall recommend such books as may appear to them most suitable to be used in common schools, and such methods of instruction, modes of government and discipline to be pursued in said schools as may seem best adapted to promote their usefulness. (*Sec. 2.*)

SEC. 3. The superintending school committee in each town shall immediately after the close of the winter schools, and on or before the first day of April in each year, transmit to the secretary of state, to be by him delivered to the secretary of the board of education, a copy of the report presented by them to the town at its annual meeting, and also at the same time shall forward to the secretary of state for the same purpose, according to forms by him provided, answers to all such questions relating to the appropriation of money raised in the town, the studies pursued in the schools, the books used, the methods of instruction and discipline adopted, the condition of the school houses, and such other subjects relating to the schools as shall from time to time be proposed by the board of education, by direction of the governor and council. (*Sec. 3.*)

SEC. 4. No town from which such returns shall not have been received by the secretary of state on or before the first day of April, shall be entitled to receive its portion of the literary fund for that year; and such portion of the fund shall be distributed among the towns entitled to receive the same; unless before the third Tuesday of June following it shall be made to appear to the governor and council that the neglect to make return was occasioned by some mistake or accident; *provided*, the secretary of state shall have notified the selectmen of such town by the first day of May, that said return has not been received by him, and unless the said return shall be thereupon made to the secretary of state by the twentieth of the same month. (*Sec. 4.*)

SEC. 5. The superintending school committee of any town neglecting to make a return of the schools of said town to the secretary of state agreeably to the provisions of this chapter, shall be responsible to said town for the amount of the literary fund forfeited through his negligence. (*Laws of 1851, chap. 1102, sec. 1.*)

SEC. 6. It shall be the duty of the county commissioners to spend not less than one day in each town of his county each year, for the purpose of promoting by addresses, inquiries and other means, the cause of common school education, and to report his doings to the secretary of the board of education. It shall also be the duty of each county commissioner to take charge of any teachers' institute that may be held in his county. (*Laws of 1850, chap. 955, sec. 5.*)

SEC. 7. The board of education shall annually, in the month of June, through their secretary, make to the general court a re-

port upon the common schools of the State, comprising the substance of the returns from the several towns, and such information and suggestions as may seem useful to said board. And the secretary of the said board shall procure, at the expense of the State, the printing of six hundred copies of the report, and lay them before the general court to be disposed of at their direction, and shall procure annually the printing of an additional copy of said report for the use of each school district in the State. (*Laws of 1850, chap. 955, sec. 6, amended by laws of 1852, chap. 1251.*)

SEC. 8. The annual salaries of the commissioners of common schools in the several counties shall be as follows:

Rockingham, one hundred and seventy dollars.

Strafford, seventy-five dollars.

Belknap, sixty dollars.

Carroll, eighty dollars.

Merrimack, one hundred and thirty dollars.

Hillsborough, one hundred and fifty-five dollars.

Cheshire, one hundred and twenty dollars.

Sullivan, ninety dollars.

Grafton, one hundred and eighty-five dollars.

Coös, one hundred and thirty-five dollars. (*Laws of 1850, chap. 955, sec. 7.*)

SEC. 9. The salaries of commissioners of common schools shall be paid semi-annually from the state treasury. (*Sec. 8.*)

SEC. 10. Each commissioner shall also be compensated for such reasonable sums as he may have expended for stationery, printing, postage, and the transmission of blank forms and circulars; his account for the same having been allowed by the governor and council, and the governor and council are hereby authorized to draw the same by warrant from the treasury. (*Sec. 9.*)

SEC. 11. Whenever the several county commissioners meet as a board of education, they shall, in addition to their annual salary, receive the same mileage as the members of the house of representatives, and the same per diem allowance, not exceeding two days. (*Sec. 10.*)

SEC. 12. The secretary of the board of education shall receive two dollars per day while employed in preparing his annual report, which sum, together with the mileage and per diem allowance of the several commissioners, shall be paid as provided in section tenth of this chapter. (*Sec. 11.*)

SEC. 13. No commissioner shall be employed as an agent of any bookseller or publisher of books, or in the sale of any books; and if it shall appear to the governor and council that any commissioner has been thus employed, he shall not be entitled to any compensation for his services. (*Sec. 12.*)

SEC. 14. The several county commissioners shall commence their services as such on the first Monday in December. (*Sec. 13.*)

CHAPTER 83.

OF TEACHERS' INSTITUTES.

COMPILED FROM

Chapter 338, Laws of 1846.

" 1156, " " 1851.

" 1326, " " 1852.

SECTION

1. Towns may raise money to support teachers' institutes.
2. Towns to appropriate three per cent.

SECTION

3. Selectmen authorized to pay the same to county school commissioner.

SECTION 1. Any town in this State, at a legal meeting for that purpose, may raise in addition to the amount by law required to be raised therein for the support of common schools, a sum not exceeding five per cent. of such amount, to be applied to the support of a teachers' institute within the limits of the county in which said town is situated. (*Laws of 1846, chap. 338.*)

SEC. 2. A sum equal to three per cent. of the amount required by law to be raised for the support of common schools in each town be appropriated by said town for the support of teachers' institutes in each county. (*Laws of 1851, chap. 1156.*)

SEC. 3. The selectmen of each town in this State be authorized to pay over to the school commissioner of their county the sums by law required to be appropriated by said town for the support of teachers' institutes. (*Laws of 1852, chap. 1326.*)

CHAPTER 84.

OF INSTRUCTION OF YOUTH IN MANUFACTURING ESTABLISHMENTS.

IDENTICAL WITH

Chapter 622, Laws of 1848.

SECTION

1. Child under fifteen years of age, when may be employed.
2. Child under twelve years age, when may be employed.

SECTION

3. Penalty for employing unless a certificate is lodged with agent or clerk.

SECTION 1. No child under the age of fifteen years shall be employed to labor in any manufacturing establishment unless such

child shall have attended some academy, high school, or public or private day school where instruction is given by a teacher competent to instruct in the branches usually taught in district schools, at least twelve weeks during the year next preceding the time when such child shall be so employed.

SEC. 2. No child under the age of twelve years shall be employed as aforesaid unless such child shall have attended some academy or school as aforesaid at least six months during the year next preceding the time when said child shall be so employed: *provided, however*, that in case such child, when not prevented by sickness, shall have attended the district school in the district where such child had its residence during the whole time such school was kept in the district during said year, such child may be employed as aforesaid in the same manner as if the child had attended an academy or school as aforesaid for the full term of six months.

SEC. 3. The owner, agent or superintendent of any manufacturing establishment who shall employ any child to labor in such establishment, unless a certificate is lodged with the agent or clerk thereof, signed by the teacher under whose charge such instruction was received, or by the prudential committee of the district in which such child attended school as aforesaid, certifying that said child has attended school as provided by the first and second sections of this chapter, shall forfeit and pay the sum of fifty dollars for each offence, to be recovered by indictment to the use of the complainant.

CHAPTER 85.

OF THE LITERARY FUND.

COMPILED FROM

Chapter 75 of the Revised Statutes.

" 738, Laws of 1848.

" 982, " " 1850.

SECTION

1. Literary fund established.
2. Board of commissioners.
3. Amount of capital determined.
4. Distribution to towns annually.
5. Unincorporated places excepted.

SECTION

6. Money, how to be expended.
7. If expended otherwise, penalty.
8. College Grant and Wentworth's Location.

SECTION 1. Every banking corporation in this State shall pay to the treasurer of the State, on or before the second Wednesday of June annually, one half of one per cent. on the amount of the

actual capital stock of the bank at that time. The sums so paid shall constitute a fund to be called the literary fund, and shall be kept and accounted for by the treasurer. (*R. S., chap. 75, sec. 1.*)

SEC. 2. The governor, secretary and treasurer of the State for the time being shall constitute a board of commissioners to manage said fund. (*Sec. 2.*)

SEC. 3. If any dispute shall arise respecting the amount of the capital stock of any bank, the same for the purposes of this chapter shall be determined by said commissioners. (*Sec. 3.*)

SEC. 4. The treasurer of this State shall assign and distribute in the month of June annually the literary fund among the several towns and places in this State, according to the number of scholars of such towns and places, not less than four years of age, who shall by the report of the superintending school committee of the several towns and places returned to the secretary of state for the year preceding, appear to have attended the district common schools in such towns and places for a time not less than two weeks within that year. (*Laws of 1848, chap. 738.*)

SEC. 5. No unincorporated place shall receive such portion until a treasurer or school agent shall have been chosen to receive and appropriate the same in the manner hereinafter directed. (*R. S., chap. 75, sec. 5.*)

SEC. 6. The money received by any town or place as aforesaid shall be applied to the maintenance of common schools or to other purposes of education, in addition to the sums required to be raised by law, and in such manner as the town shall direct. (*Sec. 6.*)

SEC. 7. If any town or incorporated place or the agent of any unincorporated place shall apply any sum of money so received to any other purpose than as aforesaid, the town, place or agent so offending shall forfeit and pay double the sum so misapplied, to be recovered by indictment for the use of the county. (*Sec. 7.*)

SEC. 8. The treasurer of the State shall now distribute the literary fund assigned to the unincorporated places in the county of Coös, among the several towns in said county as now provided by law, and in the month of June annually hereafter, for the use of common schools, except what belongs to the Second College Grant and Wentworth's Location, which shall be paid to the prudential committee or agent of said Second College Grant or Wentworth's Location, when duly authorized by the inhabitants therein, which shall be applied to the maintenance of common schools. (*Laws of 1850, chap. 982.*)

TITLE XII.

OF THE MILITIA.

CHAPTER 86.	Of exemptions.
CHAPTER 87.	Of enrolments.
CHAPTER 88.	Of returns.
CHAPTER 89.	Of orderly books and rosters.
CHAPTER 90.	Of companies and enlistments.
CHAPTER 91.	Of uniform and equipments.
CHAPTER 92.	Of ordnance and gun houses.
CHAPTER 93.	Of arms furnished by the State.
CHAPTER 94.	Of detachments for actual service.
CHAPTER 95.	Of regiments, brigades and divisions.
CHAPTER 96.	Of officers.
CHAPTER 97.	Of the adjutant general.
CHAPTER 98.	Of the commissary general.
CHAPTER 99.	Of courts martial.
CHAPTER 100.	Of courts of inquiry.
CHAPTER 101.	Of the incorporation of military companies.

CHAPTER 86.

OF EXEMPTIONS.

COMPILED FROM

Chapter 76 of the Revised Statutes.

" 34, Laws of 1843.

" 259, " " 1845.

" 1090, " " 1851.

SECTION

1. Absolute exempts.
2. Conditional exempts.

SECTION

3. Money received of exempts.

SECTION 1. The following persons are exempted from military duty: the vice president of the United States; the officers judicial and executive of the government of the United States; members and officers of both houses of congress; all custom house officers and their clerks; all post officers and stage drivers who are employed in the care and conveyance of the mail of the United States; all ferrymen necessarily employed at any ferry on any post road; all inspectors of exports; all pilots; all mariners actu-

ally employed in the sea service of any citizen or merchant within the United States; the members and officers of the legislature while in session; all persons who, having held commissions in the army or navy of the United States or in the militia of any state for the term of four years, shall have been regularly discharged or superseded; all persons who, having held a warrant as drum or fife major, shall have done duty as such for the term of four years; fire enginemen or hosemen who shall on or before the twentieth day of April annually produce to the commanding officer of the company within whose limits they reside, a certificate of the fireward that they have been legally appointed and are bound to perform the duty of enginemen or hosemen; all persons while employed as officers or keepers in the state prison; clergymen of every religious denomination; every person of the religious denominations of Quakers and Shakers, who shall on or before the twentieth day of April annually produce to the commanding officer of the company within whose limits he shall reside, a certificate signed by two or more of the elders or overseers and the clerk of the meeting or society with which he meets for worship, in substance as follows:

We, the subscribers, elders (or overseers as the case may be) of the meeting of the society of _____ do hereby certify that _____ frequently and usually attends with said society for public worship, is a regular member thereof, and we believe he is conscientiously scrupulous of bearing arms.

E. F., Clerk.

A. B. } Elders (or
C. D. } Overseers.)

And any person who shall produce a certificate from the clerk of any society or meeting of the people called Friends, that he is a member of such society or meeting in good standing, shall not be liable to enrolment. (*R. S., sec. 1; amended by laws of 1845, chap. 259, and laws of 1851, chap. 1090, sec. 1.*)

SEC. 2. The following persons are conditionally exempted from military duty, namely: the members of the executive council; judges and clerks of all courts of record; judges and registers of probate; registers of deeds; the attorney general; the secretary and treasurer of the State; physicians and surgeons on whom has been conferred the degree of doctor of medicine, or who shall be recommended by any regular medical society; persons who having held a commission in the army or navy of the United States or in the militia of any state for a less term than four years, shall have been regularly discharged; the attendants upon the insane, employed in the New Hampshire Asylum for the Insane; *provided*, that each of the foregoing persons shall annually pay into the town treasury of the town in which he resides, the sum of two dollars, and on or before the twentieth day of April in each year produce to the commanding officer of the company within whose limits he may reside, a certificate of such payment signed by the

town treasurer or selectmen receiving payment, which he is hereby required to give; every person conscientiously scrupulous of bearing arms, who shall annually pay into the treasury of the town or place where he may reside the sum of three dollars, and shall on or before the twentieth day of April in each year produce to the commanding officer of the company within whose limits he may reside, a certificate of such payment signed by the treasurer or selectman receiving the same, which they are hereby required to give. (*R. S., sec. 2, as amended by laws of 1843, chap. 34, sec. 2.*)

SEC. 3. All money received by the selectmen or town treasurer from conditional exempts, shall be retained by them for the use of the town. (*R. S., sec. 3.*)

CHAPTER 87.

OF ENROLMENTS.

COMPILED FROM

Chapter 77 of the Revised Statutes.

" 954, Laws of 1850.

SECTION

1. Persons liable to do duty.
2. Students at institutions.
3. Captains to enrol.
4. Captains to revise rolls.
5. Orderly sergeants to assist.
6. Persons to give name and age.

SECTION

7. Names and ages of boarders to be given.
8. Companies without officers, how enrolled.
9. Neglect of selectmen to enrol, penalty.
10. Fees for enrolment and return.

SECTION 1. Every free, able bodied white male citizen of this State, resident therein, of the age of eighteen years and under the age of forty-five years, not now by law exempt from doing military duty, shall be enrolled in the company within whose limits he may reside, or into which he may have enlisted. (*R. S., sec. 1, amended by laws of 1850, chap. 954, sec. 1.*)

SEC. 2. Residence in any town merely for the purpose of obtaining an education at any literary institution, shall not subject the person so residing to do military duty in such town.

SEC. 3. Every captain of infantry shall enrol every person by law liable to do military duty, who shall reside within the bounds of his company: the insertion of the name of such person in any company orders or its annexation thereto shall in all cases be evidence that such person is duly enrolled.

SEC. 4. The captain shall annually revise the roll of his company in the month of April, and correct the same from time to time as the alterations in his company shall require.

SEC. 5. The orderly sergeant shall assist the commanding officer in enrolling such persons as may from time to time be liable to do military duty in his company, and in revising and correcting his roll, and shall enter such enrolments on the roll books of the company.

SEC. 6. If any person when applied to by the captain or any officer of the company within whose limits he resides, shall neglect or refuse to give information or shall give false answers in relation to his name or age with intent to prevent his being enrolled, he shall forfeit five dollars for each offence. If such person be a minor, his parent or guardian shall be liable for such forfeiture.

SEC. 7. If any person when applied to by any officer of the company within whose limits he resides, shall neglect or refuse to give information or shall give any false information, in relation to the name of any person liable to be enrolled residing in his house or family, he shall forfeit the sum of five dollars.

SEC. 8. If any company not raised by voluntary enlistment shall be without officers, and suitable persons shall not be found by the field officers of the regiment willing to accept the commissions, the selectmen of the town, or the city council of the city in which such company shall belong, shall make the enrolment, record and return now provided to be made by the commanding officer of said company. (*Laws of 1850, chap. 954, sec. 2.*)

SEC. 9. If the selectmen of any town or the city council of any city shall neglect or refuse to perform any duty imposed upon them by the preceding section, every selectman and every member of the city council so neglecting or refusing shall forfeit the sum of twenty dollars for each and every offence, to be recovered by the adjutant general or any other person suing therefor, one half to the use of the person who may sue for the same, the other half to the use of the State. (*Laws of 1850, chap. 954, sec. 3.*)

SEC. 10. The commanding officer and the clerk of each company other than volunteer shall, for the due performance of their duty in making the enrolment and return, receive from the treasury of the town or city to which each company shall belong, the sum of one dollar per day each, for each day necessarily occupied by them in doing said duty. (*Laws of 1850, chap. 954, sec. 4.*)

CHAPTER 88.

OF RETURNS.

COMPILED FROM

Chapter 88 of the Revised Statutes.

“ 1190, Laws of 1851.

SECTION

1. Captains to make return to adjutant.
2. Captains to make return to quartermaster.
3. Clerk to assist in making returns.
4. Adjutant to furnish blanks and make regimental return.
5. Brigade major to make brigade return.
6. Quartermaster to make regimental return.

SECTION

7. Time of making returns.
8. Compensation to adjutants.
9. Postages and expenses to be paid.
10. Adjutant general to make return from adjutant's return.
11. Adjutant general to make return from quartermaster's return.

SECTION 1. The captain shall, at the annual inspection of his company in May, [the third Tuesday of May] make out and sign a correct return in such form as may be prescribed, of the number of persons enrolled in his company, cause it to be recorded in the orderly book of his company, signed by the clerk and transmitted to the adjutant. (*R. S., chap. 88, sec. 1, as amended by laws of 1851, chap. 1090, sec. 1.*)*

SEC. 2. The captain shall also at the same time make out and sign a correct return in such form as may be prescribed, of the camp equipage, ordnance, arms, military stores, musical instruments and public property of every description in his company, which have been furnished by the State, and add thereto a requisition for such articles as may be wanting; shall cause the same to be signed and recorded by the clerk and transmit the same to the quartermaster. (*R. S., sec. 2, as amended by laws of 1851, chap. 1090, sec. 1.*)

SEC. 3. The clerk shall assist the captain in making his returns, and shall sign and record the same in his orderly book. (*R. S., sec. 4.*)

SEC. 4. The adjutant shall furnish the captains with blank forms of returns to be made by them, and explain how they should be made; shall consolidate the returns made to him into a regimental return, record the same in his orderly book, and within the

* By the laws of 1851, chap. 1090, annual inspections in May are abolished. We have, therefore, in compiling this chapter, omitted such matter as could not be included in the returns of officers without such inspection, and have added ("the third Tuesday of May") as a substitute for "inspection in May," that being the day of annual inspection.

time prescribed by law transmit the same to the adjutant general, and a duplicate thereof to the brigade major, and keep the returns made to him on file. (*R. S., sec. 4.*)

SEC. 5. The brigade major shall consolidate the regimental returns made to him into a brigade return, record the same in his orderly book, and transmit the same to the brigadier general, and a duplicate thereof to the major general, and keep the returns made to him on file. (*R. S., sec. 6.*)

SEC. 6. The quartermaster shall consolidate the returns made to him into a regimental return, add thereto the articles of public property in his own keeping for the use of the regiment and such as are further required, record the same in his orderly book, and transmit it countersigned by the colonel to the adjutant general, and keep the returns made to him on file. (*R. S., sec. 7.*)

SEC. 7. The returns of captains to the adjutants and quartermasters shall be made within ten days after the annual inspection in May, [third Tuesday of May] and the returns of adjutants and quartermasters to the adjutant general within twenty days after said inspection; and if either of said officers shall neglect to make his return within the times aforesaid, he shall forfeit for each neglect the sum of twenty dollars. (*R. S., sec. 8.*)

SEC. 8. Adjutants shall receive two dollars for making the regimental returns, to be paid by the adjutant general. (*R. S., sec. 9.*)

SEC. 9. Postage and other reasonable expense incurred in the transmission of orders and returns, and transmission of public property shall be paid by the adjutant general on satisfactory evidence that the expense was actually and necessarily incurred and was just and reasonable. (*R. S., sec. 10.*)

SEC. 10. The adjutant general shall immediately consolidate the adjutant's returns of the several regiments, and record and transmit the same to the commander in chief, and a duplicate thereof to the secretary of war of the United States. (*R. S., sec. 11.*)

SEC. 11. He shall consolidate the returns of the regimental quartermasters, and add to the same a return of all articles of public property in his possession or issued to the regimental quartermasters, record the same, and transmit it to the commander in chief. (*R. S., sec. 12.*)

CHAPTER 89.

OF ORDERLY BOOKS AND ROSTERS.

IDENTICAL WITH

Chapter 89 of the Revised Statutes.

SECTION

1. Orderly books, by whom kept.
2. Quartermaster to keep orderly book.

SECTION

3. Rosters, by whom and how kept.

SECTION 1. Each division inspector, brigade major, adjutant and clerk of a company shall keep an orderly book, and record therein all orders and official communications received or issued by his commanding officer, and all returns which shall be signed by him, and distribute all orders of his commanding officer.

SEC. 2. Each quartermaster shall keep an orderly book, and record therein all orders and official communications received by him relating to the duties of his office, all communications written by him relating to the public property in his charge, all receipts for public property distributed by him, and all returns of public property made by him.

SEC. 3. The adjutant of each regiment shall keep in his orderly book a roster of the officers and non-commissioned officers of the regiment, with the dates of their appointments, and the clerk of each company shall keep a like roster of all the officers of the company.

SEC. 4. The clerk of each company shall record all permits and surgeons' certificates presented to him for that purpose in his orderly book.

CHAPTER 90.

OF COMPANIES AND ENLISTMENTS.

COMPILED FROM

Chapter 84 of the Revised Statutes.

" 954, Laws of 1850.

SECTION

1. Limits of companies prescribed.
2. Companies may be disbanded.
3. Companies, what, formed by enlistment.

SECTION

4. Number of volunteer companies authorized.
5. Volunteer companies, number of rank and file.

SECTION

6. Enlistments, when valid.
7. Persons enlisting, how long held.
8. Persons enlisting, how discharged.
9. Companies, number of rank and file.

SECTION

10. Company now organized, not affected.
11. Number of enlisted companies in a regiment.

SECTION 1. The field officers of the several regiments may hereafter prescribe the limits of companies other than volunteers, and alter and modify them as they shall think proper, so that the number of such companies in each town or city may conform to the number of volunteer companies hereinafter authorized to be raised by such town or city. Every order making any such alteration shall be recorded in the orderly books of the regiment and of each of the companies affected thereby. (*R. S., sec. 1, and laws of 1850, chap. 954, sec. 12.*)

SEC. 2. Any company which shall be reduced below one half the number of which it should by law consist, may be disbanded by the field officers of the regiment, and the officers and privates of such company, if of infantry, shall be annexed to some adjoining company; but if it be a volunteer company, shall be liable to do duty in the company within whose limits they reside. (*R. S., sec. 2.*)

SEC. 3. Companies of cavalry, artillery, light infantry, grenadiers and riflemen may be formed by the voluntary enlistment of citizens of eighteen years of age and upwards, in any town or city, or by the union of two or more towns, with such limits as the field officers of the regiment shall prescribe. (*R. S., sec. 3, and laws of 1850, chap. 954, sec. 7.*)

SEC. 4. Any town with less than four hundred ratable polls shall not be entitled to more than one such company; and any town containing four hundred ratable polls and less than eight hundred, shall be entitled to not more than two such companies; and any town or city containing more than eight hundred ratable polls shall be entitled to not more than three such companies. (*Part of sec. 7, laws of 1850, chap. 954.*)

SEC. 5. No such company shall contain less than thirty-two nor more than sixty-four rank and file, and not more than one company of cavalry or artillery each, shall at the same time be in organization within the limits of any one regiment. (*Part of sec. 7, laws of 1850, chap. 954.*)

SEC. 6. No enlistment shall be valid until a written notice thereof is left with the clerk of the company from which the enlistment is made, nor until the person enlisting shall be uniformed, armed and equipped to do duty in the company into which he enlists. (*R. S., sec. 4.*)

SEC. 7. Every person enlisting in any volunteer company, shall be liable to perform military duty therein five years, unless he shall be discharged or shall arrive at the age of forty-five years. (*R. S., sec. 6.*)

SEC. 8. Any one enlisted in a volunteer company, may be discharged by the colonel on his own request or that of the officers of such company, and shall then be liable to do duty in the company within whose limits he resides; and notice in writing of such discharge shall be forthwith given by the colonel to the captain of such company. (*R. S., sec. 7.*)

SEC. 9. Every company shall regularly consist of sixty-four. (*R. S., sec. 8.*)

SEC. 10. No company now formed and organized pursuant to special provisions of law, shall be affected by this chapter. (*R. S., sec. 9.*)

SEC. 11. To each regiment there may be one company of cavalry, one of artillery, two of light infantry or grenadiers and two of riflemen who shall be organized by the field officers. (*R. S., part of sec. 10.*)

CHAPTER 91.

OF UNIFORM AND EQUIPMENTS.

IDENTICAL WITH

Chapter 79 of the Revised Statutes.

SECTION

1. Uniform, how determined.
2. Equipments of field and staff officers.
3. Equipments of captains and subalterns.
4. Equipments of infantry and grenadiers.
5. Equipment of cavalry.
6. Equipment of riflemen.
7. Equipment of artillery.

SECTION

8. Soldiers to be constantly furnished with arms.
9. Minors, how furnished.
10. Persons unable, who deemed to be.
11. Persons unable, selectmen to provide.
12. Uniform, &c., exempt from attachment.

SECTION 1. The color and fashion of the uniform of the officers and soldiers of the infantry shall be determined by the commander in chief; that of the several companies of cavalry, artillery, light infantry, grenadiers and riflemen by the field officers of their respective regiments; but the uniform of such companies shall not be changed without the consent of a majority of the company.

SEC. 2. All general, field and commissioned staff officers who have a rank assigned them, shall be armed with a sword and a pair of pistols, and severally furnished with a suitable horse, saddle, bridle, mail-pillion, valise, holsters, boots and spurs.

SEC. 3. Captains, subalterns and non-commissioned staff officers shall be armed with a sword.

SEC. 4. Non-commissioned officers and privates of infantry, light infantry and grenadiers shall be armed with a good musket,

with a flint lock and two spare flints, or musket with a percussion lock and a box containing not less than twenty-five percussion caps, with a steel or iron ramrod and suitable bayonet, and equipped with a priming wire and brush, bayonet, scabbard and belt, a cartridge box that will contain twenty-four cartridges suited to the bore of his musket, a knapsack and canteen.

SEC. 5. Officers and privates of cavalry shall be armed with a sabre and pair of pistols, and shall severally furnish themselves with a good horse at least fourteen and a half hands high, a good saddle and bridle, mail-pillion and valise, holsters with bearskin caps, a cartridge box to contain twelve cartridges, boots and spurs.

SEC. 6. Non-commissioned officers and privates of any company of riflemen shall be armed with a good rifle, and equipped with a powder flask and bullet pouch, knapsack and canteen.

SEC. 7. Non-commissioned officers and privates of artillery shall be armed with swords and equipped with a knapsack and canteen.

SEC. 8. Every officer, non-commissioned officer and private shall constantly keep himself furnished with the arms and equipments required by law, except such private of infantry as shall not be able to provide himself.

SEC. 9. Minors liable to do military duty, shall be furnished with such arms and equipments by their parents, masters or guardians, unless they are unable to furnish the same.

SEC. 10. No person shall be deemed unable to provide the arms and equipments aforesaid for himself or any minor under his care, unless he shall in the month of April annually produce to the captain a certificate of such inability, from the selectmen of the town where such minor or person liable to do military duty resides.

SEC. 11. Such selectmen shall forthwith provide at the expense of their towns, the arms and equipments aforesaid, for every such minor or private to whom they may grant such certificate, and shall permit the captain to deliver the same to such private or minor, whenever his company shall be ordered out for military duty; and such captain shall be responsible for the safe return of such arms and equipments to the place of deposit provided by such selectmen.

SEC. 12. Every officer, non-commissioned officer and private shall hold his uniform, arms and equipments exempted from attachment and execution and from distress from taxes.

CHAPTER 92.

OF ORDNANCE AND GUN HOUSES.

IDENTICAL WITH

Chapter 85 of the Revised Statutes.

SECTION

1. Ordnance allowed to artillery companies.
2. Captain responsible.
3. Money allowed for repairs.
4. Gun house to be erected.
5. Deed of land to the State.
6. Gun houses may be removed.

SECTION

7. No person to take gun without leave.
8. Penalty.
9. Persons using gun with leave liable for damages.
10. Penalty for breaking gun house.
11. Fines and damages, how applied.

SECTION 1. One piece of ordnance with carriage, harness and apparatus complete will be allowed to each company of artillery, and every such company having two pieces of ordnance, shall be allowed additional harnesses and apparatus at the expense of the State.

SEC. 2. The captain shall have the entire care and control of the same and shall be responsible for any injury which may arise to the same from his neglect.

SEC. 3. A sum not exceeding five dollars shall annually be allowed to the captain for repairs of such piece, carriage and harness on satisfactory evidence that it has been so expended.*

SEC. 4. The captain of each company of artillery shall cause a suitable building to be erected to secure the field piece belonging to the company, when necessary, and shall receive such allowance therefor not exceeding fifty dollars, as the legislature on presentment of his claim shall think reasonable.

SEC. 5. No such claim shall be allowed until a deed conveying the land on which the same is erected, to the State in fee, shall have been filed in the office of the secretary of state, nor until the field officers shall have certified their approval of its location and construction.

SEC. 6. Any gun house may be removed, whenever the field officers shall approve the same, a like deed of the land to which it is to be removed, being first filed in the secretary's office as aforesaid.

SEC. 7. No person shall remove any piece of ordnance from the gun house or other place where it is deposited, nor any carriage, harness or apparatus belonging thereto, for any purpose whatever, without the written permission of the captain of the company to which it belongs.

* A portion of Sec. 3 of chapter 85 of the Revised Statutes has been omitted. The act of 1851, chapter 1090, seems to require this omission.

SEC. 8. If any person shall remove or use any such piece of ordnance, carriage, harness or apparatus without such permission, he shall forfeit a sum not less than five dollars nor more than twenty dollars, and shall be liable to pay double damages for any injury which the same may sustain from any cause, until they shall be returned and notice thereof in writing given to such captain.

SEC. 9. If any person shall take or use any such piece of ordnance, carriage, harness or apparatus with the permission of the captain for any purpose except that of military exercise when the company shall be paraded, he shall be liable for all damages the same may sustain from any cause, until the same is returned and notice thereof given as aforesaid.

SEC. 10. If any person shall break open or enter any gun house, or in any way injure the same or any public property therein, he shall forfeit a sum not less than five dollars nor more than twenty dollars, and shall be liable to pay double damages for any injury the same may sustain thereby, or in any manner in consequence thereof.

SEC. 11. The penalties and damages shall be recovered by the adjutant general in the name of the State, and applied to defray the expenses of keeping such public property in repair.

CHAPTER 93.

OF ARMS FURNISHED BY THE STATE.

COMPILED FROM

Chapter 86 of the Revised Statutes.

" 484, Laws of 1847.

" 954, " " 1850.

SECTION

1. Towns to be furnished with arms, and to hold the same for the use of the militia.

SECTION

2. Arms, where received and returned.
3. Sale of military stores.
4. Military stores destroyed by fire, &c.

SECTION 1. After the first annual return of the militia under this act shall have been received by the adjutant general, he shall cause to be delivered to the several towns or cities in the State, not now supplied with the same, such arms as are now authorized by law to be delivered to uniform companies, in number or proportion corresponding to the volunteer force apportioned to the respective towns or cities by this act, said arms to be held in trust by the selectmen of such town or the city council of such city, for the use of the company or companies of volunteers, if there be

any within their respective limits; otherwise for the use of the militia other than volunteer, whenever the same shall be called in actual service; and any state arms now in the possession of any uniformed company shall likewise be held in trust as aforesaid, the bonds now held by the State of the officers of such company or others being given up; and said town or city shall be held responsible to the State for the safe keeping of all arms so held in trust, and for their return whenever they shall be required; and it shall be the duty of said commanding officers of the above named companies, if required by said selectmen of such towns or the city council of such cities, to give good and sufficient bonds for the safe keeping and for their return, whenever they shall be required by said selectmen or city council. (*Laws of 1850, chap. 954, sec. 8.*)

SEC. 2. All towns in the county of Coös and also in the county of Grafton, when the adjutant general shall so order, shall receive arms from and return the same to the arsenal at Lancaster. All other companies shall receive arms from and return the same to the arsenal at Portsmouth. (*R. S., sec. 7.*)

SEC. 3. The commander in chief, with advice and consent of the council, is authorized from time to time to cause to be sold, and the proceeds thereof to be paid into the treasury, or exchange such military stores or property belonging to the State as may be found unserviceable or in a state of decay, or which, in the opinion of the commander in chief and council, it may be for the interest of the State should be disposed of. (*Laws of 1847, chap. 484, sec. 12.*)

SEC. 4. Whenever any military stores or property belonging to the State shall be destroyed by fire, or otherwise injured, the commander in chief, with advice and consent of the council, may from time to time settle and adjust the damages on account of the same, with the obligor of any bond or obligation for the safe keeping of the same, on such terms, or the payment of such sums into the treasury, as shall be by him, with advice and consent of the council, directed. (*Laws of 1847, chap. 484, sec. 13.*)

CHAPTER 94.

OF DETACHMENTS FOR ACTUAL SERVICE.

. COMPILED FROM

Chapter 91 of the Revised Statutes.

" 1090, Laws of 1851.

SECTION

1. Active duty only required in case of war, &c.
2. Detachments, by whom ordered.

SECTION

3. Volunteer companies first to be ordered out.
4. Details, how made.

SECTION

5. Volunteers to be accepted.
6. Penalty for refusing to march.
7. Persons detached, subject to rules and articles of United States.
8. Short notice sufficient, when.

SECTION

9. Signals of alarm to be appointed.
10. Companies called out to suppress riots, list of names to be returned, &c.
11. Compensation for service.

SECTION 1. The militia of this State shall be subject to no active duty, except in case of war, invasion, insurrection, riot, inability of the civil officers to enforce the execution of the laws, or other public danger or emergency. (*Laws of 1851, chap. 1090, sec. 1.*)

SEC. 2. In cases of actual or threatened invasion, insurrection or other public danger, the commander in chief may order the militia or part thereof to be detached; and in cases of emergency the officers commanding divisions, brigades or regiments, may order such detachments and appoint such military watches or guards in such places and under such regulations as they may judge necessary, until orders can be received from the commander in chief. (*R. S., sec. 1.*)

SEC. 3. In case of riot, insurrection, or other sudden emergency, the volunteer companies of the city or town where military force may be required to suppress such riot or insurrection, or meet such other emergency, shall first be ordered into said service; *provided however*, that the same duties shall be performed by the officers of companies, and by the selectmen of towns, and the city councils of cities, in relation to the enrolment, record and return of persons liable to be enrolled in the militia, as are now required by law. (*Laws of 1851, chap. 1090, sec. 1.*)

SEC. 4. Except in cases where entire regiments or companies may be detached, the officers shall be regularly detailed from the rosters and the privates drafted by lot from the company rolls; and in case any company shall not be organized, such draft shall be made by the colonel or some officer designated by him. (*R. S., sec. 2.*)

SEC. 5. If suitable officers or privates shall volunteer, their services may be accepted and details or drafts made for the residue only. (*R. S., sec. 3.*)

SEC. 6. If any person who shall have volunteered or been detailed or drafted, and notified and ordered to march, shall neglect or refuse to obey such orders, he shall be liable to the punishment of desertion, unless he shall within twenty-four hours after such notice furnish an able bodied man in his stead, or pay to the commanding officer of the company to which he belongs, the sum of fifty dollars, to be appropriated to the hire of men to complete the detachment. (*R. S., sec. 4.*)

SEC. 7. All persons detached for actual service shall be subject to the rules and articles provided by the laws of the United States for the government of the militia in the service of the United

States; the State of New Hampshire and the corresponding officers thereof being in all cases understood, where reference is made therein to the United States or the officers thereof. (*R. S., sec. 5.*)

SEC. 8. In case of actual or threatened invasion or insurrection, any notice, however short, to muster for military service shall be legal and binding. (*R. S., sec. 6.*)

SEC. 9. Signals of alarm may be appointed by the commander in chief, and if any non-commissioned officer or private shall, upon the alarm being given, unnecessarily neglect to appear armed and equipped at such time and place as the commanding officer may appoint, due notice having been given him of such signals and of the time and place appointed, he shall pay a fine of ten dollars. (*R. S., sec. 7.*)

SEC. 10. Whenever any volunteer or other company of militia shall be ordered into service to suppress riot or insurrection, or to aid civil officers in the execution of the laws, or on account of any other sudden emergency, the commanding officer thereof shall, as soon as may be after said company shall be discharged from said service, make out a list of the names of all the members of his company who have performed duty in said service, and specify against the name of each person the length of time he was employed on said duty, and shall certify under oath to the truth thereof, and return said list so certified to the city council of the city or the selectmen of the town where said service was rendered. (*Laws of 1851, chap. 1090, sec. 2.*)

SEC. 11. The city council or selectmen shall pay to each person whose name is contained in said list, whenever the same may be called for, at the rate of two dollars for each day's service so rendered and certified. (*Laws of 1851, chap. 1090, sec. 2.*)

CHAPTER 95.

OF REGIMENTS, BRIGADES AND DIVISIONS.

COMPILED FROM

Chapter 92 of the Revised Statutes.

" 253, Laws of 1845.
 " 839, " " 1849.
 " 988, " " 1850.

SECTION

1—42. Regiments constituted.
 43—50 Brigades.

SECTION

51—54. Divisions formed.

SECTION 1. The companies in Portsmouth, Newcastle, Rye,

Greenland, Newington and Stratham shall constitute the first regiment:

SEC. 2. Those in Dover and Somersworth, the second:

SEC. 3. Those in Hampton, North Hampton, Hampton Falls, Seabrook, South Hampton and Kensington, the third:

SEC. 4. Those in Exeter, Newmarket, South Newmarket, Brentwood, Poplin and Epping, the fourth: (*Laws of 1849, ch. 839, sec. 8.*)

SEC. 5. Those in Amherst, Merrimack, Litchfield, Mont Vernon, Milford, Nashua, Nashville, Hollis, Hudson and Brookline, the fifth:

SEC. 6. Those in Richmond, Winchester, Swanzey, Chesterfield and Hinsdale, the sixth:

SEC. 7. Those in Kingston, East Kingston, Danville, Newton, Atkinson, Plaistow, Hampstead and Sandown, the seventh:

SEC. 8. Those in Derry, Londonderry, Salem, Windham and Pelham, the eighth:

SEC. 9. Those in Manchester, Goffstown, Dunbarton, Bedford, New Boston and Weare, the ninth:

SEC. 10. Those in Gilmanton, Gilford and Barnstead, the tenth:

SEC. 11. Those in Concord, Bow, Pembroke, Allenstown and Hooksett, the eleventh:

SEC. 12. Those in Rindge, Jaffrey, Fitzwilliam, Roxbury, Dublin, Marlborough, Nelson and Troy, the twelfth:

SEC. 13. Those in Haverhill, Piermont, Orford, Warren and Benton, the thirteenth:

SEC. 14. Those in Plymouth, Holderness, Campton, Thornton, Ellsworth, Woodstock, Waterville and Lincoln on the east side of the mountain, the fourteenth:

SEC. 15. Those in Plainfield, Cornish, Claremont, and the west company in Grantham, the fifteenth:

SEC. 16. Those in Charlestown, Langdon, Acworth and Unity, the sixteenth:

SEC. 17. Those in Chester, Auburn, Candia and Raymond, the seventeenth: (*Laws of 1845, chap. 253, sec. 8.*)

SEC. 18. Those in Nottingham, Deerfield, Epsom, Northwood and Pittsfield, the eighteenth:

SEC. 19. Those in Moultonborough, Center Harbor, Sandwich and Tamworth, the nineteenth:

SEC. 20. Those in Walpole, Westmoreland, Keene, Surry, Gilsum and Sullivan, the twentieth:

SEC. 21. Those in Boscawen, Salisbury, Andover and Franklin, the twenty-first:

SEC. 22. Those in New Ipswich, Sharon, Mason, Peterborough, Temple, Lyndeborough and Wilton, the twenty-second:

SEC. 23. Those in Hanover, Lebanon and Lyme, the twenty-third:

SEC. 24. Those in Stratford, Columbia, Colebrook, Stewartstown, Errol, Clarksville and Pittsburg, the twenty-fourth:

SEC. 25. Those in Durham, Lee, Madbury, Strafford and Barington, the twenty-fifth:

SEC. 26. Those in Antrim, Deering, Hillsborough, Windsor, Hancock, Francestown, Greenfield and Bennington, the twenty-sixth:

SEC. 27. Those in Wolfborough, Tuftonborough, Ossipee, Effingham, Freedom and the north company in Wakefield, the twenty-seventh:

SEC. 28. Those in Alstead, Marlow, Lempster, Stoddard and Washington, the twenty-eighth:

SEC. 29. Those in Sanbornton, New Hampton and Meredith, the twenty-ninth:

SEC. 30. Those in New London, Newbury, Wilmot, Bradford and Sutton, the thirtieth:

SEC. 31. Those in Newport, Sunapee, Goshen, Croydon, Springfield and the east company in Grantham, the thirty-first: (*Laws of 1850, chap. 988.*)

SEC. 32. Those in Bath, Lyman, Landaff, Lisbon, Littleton, Bethlehem, Franconia and Lincoln on the west side of the mountain, the thirty-second:

SEC. 33. Those in New Durham, Alton, Middleton, Brookfield, and the southerly company in Wakefield and the north company in Milton, the thirty-third:

SEC. 34. Those in Hill, Bridgewater, Bristol, Alexandria, Hebron and Danbury, the thirty-fourth:

SEC. 35. Those in Wentworth, Rumney, Dorchester and Groton, the thirty-fifth:

SEC. 36. Those in Eaton, Albany, Conway, Bartlett, Jackson and Chatham, the thirty-sixth:

SEC. 37. Those in Canaan, Dame's Gore, Orange, Enfield and Grafton, the thirty-seventh:

SEC. 38. Those in Chichester, Canterbury, Loudon and Northfield, the thirty-eighth:

SEC. 39. Those in Rochester, Farmington and Milton, except the north company, the thirty-ninth:

SEC. 40. Those in Hopkinton, Henniker and Warner, the fortieth:

SEC. 41. Those in Shelburne, Gorham, Berlin, Milan, Randolph and Pinkham's Grant, the forty-first:

SEC. 42. And the companies in Lancaster, Northumberland, Dalton, Whitefield, Stark, Jefferson, Carroll and Nash and Sawyer's Location shall constitute the forty-second regiment:

SEC. 43. The first, third, fourth and seventh regiments shall compose the first brigade:

SEC. 44. The second, tenth, twenty-fifth, twenty-ninth and thirty-ninth regiments shall compose the second brigade:

SEC. 45. The eighth, eleventh, seventeenth, eighteenth and thirty-eighth regiments shall compose the third brigade:

SEC. 46. The fifth, ninth, twenty-first, twenty-second, twenty-

sixth, thirtieth and fortieth regiments shall compose the fourth brigade :

SEC. 47. The sixth, twelfth, fifteenth, sixteenth, twentieth, twenty-eighth and thirty-first regiments shall compose the fifth brigade :

SEC. 48. The fourteenth, twenty-third, thirty-fourth, thirty-fifth and thirty-seventh regiments shall compose the sixth brigade :

SEC. 49. The nineteenth, twenty-seventh, thirty-third and thirty-sixth regiments shall compose the seventh brigade :

SEC. 50. The thirteenth, twenty-fourth, thirty-second, forty-first and forty-second regiments shall compose the eighth brigade :

SEC. 51. The first and third brigade shall form the first division :

SEC. 52. The second and seventh brigades shall form the second division :

SEC. 53. The fourth and fifth brigades shall form the third division :

SEC. 54. The sixth and eighth brigades shall form the fourth division.

CHAPTER 96.

OF OFFICERS.

IDENTICAL WITH

Chapter 93 of the Revised Statutes.

SECTION

1. Aids to the captain general.
2. Division officers.
3. Brigade officers.
4. Judge advocate.
5. Regimental officers.
6. Quartermaster.
7. Commissioned company officers.
8. Non-commissioned officers.
9. Officers, where to reside.

SECTION

10. Removal, ground of address.
11. Conviction of crime, effect.
12. Resignations, conditions of.
13. Resignations, time of, limited.
14. Bounds of parade fixed.
15. Office vacant, who shall act.
16. Rank, how determined.
17. Officers to account for public property.

SECTION 1. The captain general may appoint so many aids de camp as he shall think proper, with the rank of colonel.

SEC. 2. Each division shall be commanded by a major general. A division inspector and a division quartermaster, each with the rank of colonel, and two aids de camp with the rank of major shall be appointed by him and hold their offices during his pleasure.

SEC. 3. Each brigade shall be commanded by a brigadier general. One brigade major who shall be inspector, and a brigade quartermaster, each with the rank of major, and one aid de camp

with the rank of captain, shall be appointed by the brigadier general and hold their offices during his pleasure.

SEC. 4. One judge advocate with the rank of major shall be appointed to each brigade by the governor and council, and shall hold his office during good behavior.

SEC. 5. To each regiment there shall be a colonel, lieutenant colonel and major. The regimental staff shall be an adjutant with the rank of captain, a quartermaster and paymaster with the rank of lieutenants, a surgeon, surgeon's mate, and chaplain appointed by the colonel and commissioned by the governor; one sergeant major, one quartermaster sergeant, one drum major and one fife major appointed by the colonel; all of whom shall hold their offices during the pleasure of the colonel.

SEC. 6. Each quartermaster shall distribute all camp equipage, colors, musical instruments, military books and other public property which may be received by him from the adjutant general or any other officer, and take receipts therefor to be kept by him on file.

SEC. 7. There shall be a captain, lieutenant and ensign to every company, except those of the cavalry and artillery, which shall have a captain and first and second lieutenants. They shall be appointed by the field officers and commissioned by the governor; and if any company have sixty-four rank and file enrolled and equipped, there shall be appointed to such company an additional lieutenant, except in the cavalry companies.

SEC. 8. Every company shall have four sergeants appointed by the commissioned officers of said company, who shall have warrants under the hand of the captain, countersigned by the clerk and recorded in the orderly book of said company, of whom the first or orderly sergeant shall be clerk; and four corporals who shall be appointed by the captain and subalterns, and shall hold their offices at their pleasure.

SEC. 9. General and field officers shall reside within the limits of their respective commands, and company officers within the limits assigned to their companies; but where there are several companies in any town, the officers may reside in any part of the town.

SEC. 10. If any officer shall remove without such limits to reside without resigning his commission, it shall be sufficient cause for an address for his removal.

SEC. 11. If any officer shall be convicted of any infamous crime, he shall be put in arrest, and application shall be made to the legislature for his removal.

SEC. 12. No officer shall be permitted to resign while under arrest, nor unless the field officers shall certify that the books and other public property for which he is responsible, are delivered to the colonel or other officer appointed to receive them, that they may be delivered to his successor.

SEC. 13. No company officer shall resign between the first day

of May and the first day of November, nor any general or field officer between the tenth day of June and the first day of November, unless the commander in chief under special circumstances shall think the public good requires it.

SEC. 14. Every commanding officer on duty may ascertain and fix proper bounds to his parade, not including any travelled road, within which no spectator shall have a right to enter without his permission.

SEC. 15. In case any military office shall be vacant, or in case of the absence of any officer from the limits within which he is by law required to reside, the officer next in rank under him shall have the powers and perform the duties of such office; but no staff officer shall be removed by any officer temporarily performing the duties of a higher rank.

SEC. 16. The relative rank of officers of the same grade shall be determined by the dates of their commissions; if they are of the same date by their former commissions, if any; otherwise the oldest man shall rank first.

SEC. 17. Every military officer shall be bound to account to the adjutant general, on request, for all military books, papers or any other property received from the State or from any other officer; and for all fines by him received and not expended for purposes authorized by law.

CHAPTER 97.

OF THE ADJUTANT GENERAL.

IDENTICAL WITH

Chapter 94 of the Revised Statutes.

SECTION

1. His powers and duties.
2. To furnish standards.
3. To furnish laws and military books.
4. To recover public property.

SECTION

5. To prosecute for injuries to public property.
6. To recover penalties unless remitted.
7. To account annually for money.
8. To give bond to the State.

SECTION 1. The adjutant general shall have the rank of brigadier general; shall keep his office at Concord; shall distribute all orders of the commander in chief and record them in his orderly book; keep a roster of appointments and resignations, and detail officers for courts martial and other special service; shall furnish all officers who are required to keep orderly books with suitable blank books; shall furnish proper blanks to all officers who are required to use them, with suitable explanations; shall attend all

reviews by the commander in chief and inspect the militia who shall be so reviewed, and perform all other duties which belong to the office and to the office of the quartermaster general.

SEC. 2. The adjutant general shall furnish each regiment and each company of cavalry and artillery with a standard of scarlet silk, on which the number of the regiment or company shall be marked with white silk by the officer receiving the same, and shall furnish all camp equipage, musical instruments and other things which he shall be by law authorized to purchase for the militia.

SEC. 3. The adjutant general shall distribute to the several officers copies of the militia law, which he shall from time to time procure for that purpose, so that each officer entitled thereto shall have a copy, and shall distribute such copies of military books as the legislature may at any time direct, taking receipts therefor.

SEC. 4. The adjutant general may sue for and recover in the name of the State, from any officer who may have resigned, or other person whatever, any books, papers or other public property or moneys received for fines not expended for purposes authorized by law, which they shall not deliver to him or his order upon request.

SEC. 5. He may in like manner sue for and recover all penalties and damages, for any injury which may be done by any person to any gun house or ordnance, or the carriage, harness or apparatus belonging thereto, or to any arms, musical instruments, military books, papers or other military property belonging to the State.

SEC. 6. He shall sue for and recover in like manner all penalties incurred by any officer for neglect to make returns as required by law; but the commander in chief may remit such penalties in cases where he shall consider such neglect excusable, upon a report of the facts made to him by the adjutant general.

SEC. 7. The adjutant general shall annually account to the State for all moneys which shall be received by him from the State, or for fines or forfeitures.

SEC. 8. The adjutant general shall give bond with sufficient sureties in such sum as the governor and council may require, not less than two thousand dollars nor more than ten thousand dollars, conditioned for the faithful discharge of the duties of his office, to be approved by the governor and council.

CHAPTER 98.

OF THE COMMISSARY GENERAL.

IDENTICAL WITH

Chapter 95 of the Revised Statutes.

SECTION

1. Commissary general to give bonds.
2. Commissary general to have care of arsenal at Portsmouth.
3. Commissary general to have care of arsenal at Lancaster by deputy.

SECTION

4. Commissary general to receive arms from United States.
5. Commissary general to deliver arms to companies.
6. Commissary general to repair and certify damages.

SECTION 1. The commissary general shall give bonds in the sum of ten thousand dollars, with sufficient sureties, for the faithful discharge of the duties of his office and for the security (casualties excepted) of the public property committed to his charge.

SEC. 2. He shall have charge of the arsenal at Portsmouth and of the artillery, arms and munitions of war and other public property which are or may be deposited therein.

SEC. 3. He shall have the charge of the arsenal at Lancaster, and shall cause to be kept therein such artillery arms and military stores as the legislature direct, to be under the care of a deputy to be by him appointed, who shall give bonds to him for the faithful performance of his duties.

SEC. 4. He shall receive from the United States all arms and equipments of every kind, apportioned to this State under the act for arming the militia, and deposit them in the arsenal at Portsmouth.

SEC. 5. He shall deliver from the arsenal such arms as any military company or any town or city shall be by law entitled to receive, upon the certificate of the adjutant general, and receive therein any arms which may be required by the adjutant general to be there returned, and give a receipt therefor.

SEC. 6. If any such arms returned to the arsenal, shall be damaged, the commissary general shall cause the same to be repaired, and certify the actual expense of such repairs to the adjutant general.

CHAPTER 99.

OF COURTS MARTIAL.

IDENTICAL WITH

Chapter 96 of the Revised Statutes.

SECTION

1. Of arrests, how made; proceedings.
2. Arrests to be reported to the adjutant general.
3. Courts martial, how ordered.
4. Courts martial, how constituted.
5. Oath of members.
6. Oath of judge advocate.
7. Challenges.
8. Court to sit by day only.
9. Manner of making a decision.
10. Sentences, what may be passed.
11. Court to preserve order.
12. Copy of charges to be furnished.

SECTION

13. Limitations of prosecutions.
14. Proceedings when accused refuses to appear, or to answer.
15. Oath to witnesses.
16. Attendance of witnesses compelled.
17. Attendance of judge advocate upon the court.
18. Minutes of proceedings to be kept.
19. Certain proceedings to be in writing.
20. Records to be deposited in adjutant general's office.
21. Fees in courts martial.
22. Roll of fees to be made.

SECTION 1. If any officer shall neglect to perform the duties of his office, or to obey the rightful order of his superiors, or shall at any time be guilty of unofficer-like or ungentleman-like conduct, he may be put under arrest by his superior officer and tried by a court martial. If any officer under arrest shall exercise any military command, he shall on conviction by a court martial be cashiered.

SEC. 2. Every arrest, with the cause thereof, shall be reported without delay by the officer ordering the same, to the adjutant general, to be laid before the commander in chief.

SEC. 3. The commander in chief on examination of the report may discharge the officer from arrest, if in his opinion the case does not call for a court martial, or may order a court martial for his trial.

SEC. 4. Every court martial shall consist of a president, four members, a judge advocate and marshal. The president and marshal shall be appointed by the commander in chief. The members with two supernumeraries from whom any vacancy shall be filled, shall be regularly detailed by the adjutant general from the general roster, from such regiments or brigades as in the opinion of the commander in chief may most conveniently furnish them.

SEC. 5. Before proceeding to any trial, the judge advocate shall administer to the president and each of the members separately the following oath:

"You swear that without partiality, favor, affection, prejudice or hope of reward you will well and truly try the cause now before

you, between the State and the person to be tried, and that you will not divulge the sentence of the court until it is approved or disapproved, and that you will not on any account at any time whatever, discover the vote or opinion of any member, unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help you God."

SEC. 6. And the president shall administer to the judge advocate the following oath:

"You swear that you will faithfully and impartially discharge your duties as judge advocate on this occasion, as well to the State as the accused, and that you will not on any account at any time whatever divulge the vote or opinion of any member of this court martial, unless required to give evidence thereof as a witness by a court of justice in a due course of law. So help you God."

SEC. 7. After the president, members and judge advocate are sworn, any member may be challenged either on the part of the government or of the accused, the cause of challenging being stated in writing, and the validity thereof shall be determined by the court, the members objected to not voting. One member only can be challenged at once.

SEC. 8. Trials by court martial shall be in the day time only.

SEC. 9. On all questions the opinions of the youngest member in commission shall be first taken, and so on regularly to the oldest, and unless two thirds of the members agree that the accused is guilty, he is acquitted.

SEC. 10. Courts martial may sentence any officer convicted by them to be cashiered or reprimanded in orders, or may impose a fine not less than ten dollars nor more than one hundred dollars, which may be recovered by the adjutant general in an action of debt in the name of the State, in any proper court. If any officer shall be sentenced to be cashiered, the court shall adjudge him incapable of holding any military office for life or a term of years, according to the aggravation of his offence.

SEC. 11. Courts martial are authorized to preserve order during their session, and if any person in their presence shall behave in a disorderly manner, or make any tumult in or disturb such court, and shall not upon command of the marshal desist therefrom, the court may confine such person for a time not exceeding eight hours.

SEC. 12. Every officer to be tried by a court martial, shall be put in arrest and shall be brought to trial without unnecessary delay. A copy of the charges and notice of the time and place appointed for his trial, shall be given him at least ten days before the trial is commenced.

SEC. 13. No officer shall be tried before a court martial, for any offence committed more than one year before complaint in writing is made therefor, unless by reason of absence or other manifest impediment he shall not have been amenable to justice within that period.

SEC. 14. If any officer for the trial of whom a court martial is appointed, shall not appear, or shall withdraw in contempt of court, or being arraigned shall from obstinacy or deliberate design stand mute or answer foreign to the purpose, the court shall proceed to trial and judgment as if he had pleaded not guilty.

SEC. 15. The judge advocate shall administer the following oath or affirmation to all witnesses required to give evidence before any court martial or court of inquiry :

" You swear, (or *affirm*, as the case may be,) that the evidence you shall give in relation to the charge now in hearing shall be the truth, the whole truth and nothing but the truth. So help you God." (Or, "this you do under the pains and penalties of perjury," in case the witness shall affirm.)

SEC. 16. Courts martial may compel witnesses duly summoned as in civil cases, to appear and testify, by attachment and by fine and imprisonment, in the same manner as courts of common law may lawfully do.

SEC. 17. The judge advocate shall attend all courts martial which shall be ordered in his brigade, and in case of his inability or of any legal impediment to his acting, the commander in chief may designate the judge advocate of another brigade or appoint a special judge advocate for any court.

SEC. 18. The judge advocate shall keep accurate minutes of the proceedings of the court and of the evidence, and shall impartially state the evidence for and against the accused, and shall transmit such minutes signed by the president of the court martial and himself, with the papers used at the trial or certified copies thereof, to the commander in chief, under seal.

SEC. 19. The statement of the complainant and the defence of the accused, all motions and objections to evidence, and opinions of the judge advocate on questions of law, shall be in writing and entered on the minutes or annexed thereto.

SEC. 20. The original records of all courts martial shall be deposited and preserved in the office of the adjutant general, and the accused shall be entitled to a copy thereof, upon paying the same fees as are allowed for copies to the secretary of state.

SEC. 21. The fees for services rendered on courts martial, shall be as follows : to the president, members, supernumeraries, judge advocate and marshal, one dollar and twenty-five cents a day each, and four cents a mile for travel to and from court ; to the judge advocate for drawing necessary papers, for copies and recording, twelve and a half cents for each page of two hundred and twenty-four words ; to the marshal for notifying members, supernumeraries or the accused of the time and place of trial, three cents a mile for all necessary travel out and in, and twenty-three cents for each notification, and for summoning witnesses twenty-three cents each ; to the marshal or sheriff for committing any person for refusing to give evidence, the same fees as are allowed to sheriffs for like ser-

vices on civil process; to witnesses, the same fees as are allowed to witnesses at the court of common pleas.

SEC. 22. A roll shall be made by the judge advocate of all fees, charges and expenses, specifying the services and to whom due, and the president and judge advocate shall certify that the fees and charges are legal, and that the contingent expenses were necessary and the charges reasonable. And the same being transmitted with the record to the governor, he shall, with the advice of the council, draw an order on the treasurer for so much thereof as he shall deem reasonable and proper, in favor of the president of the court.

CHAPTER 100.

OF COURTS OF INQUIRY.

IDENTICAL WITH

Chapter 97 of the Revised Statutes.

SECTION

1. Court of inquiry, how ordered.
2. Court, how constituted.
3. Oath of members.
4. Oath of judge advocate.

SECTION

5. Parties may offer evidence.
6. Court not to give opinion.
7. Powers and fees of such court.

SECTION 1. The commander in chief may order courts of inquiry to examine into the nature of any transaction, or any accusation or imputation against any officer, or for the purpose of settling military questions, or for other purposes relative to good order and discipline.

SEC. 2. Courts of inquiry shall consist of three officers and a judge advocate, to be designated by the commander in chief.

SEC. 3. The judge advocate shall administer to each of the officers composing a court of inquiry the following oath: "You swear that you will well and truly examine and inquire into the matter now before you, without partiality, favor, prejudice, affection or hope of reward. So help you God."

SEC. 4. The president shall then administer to the judge advocate the following oath: "You swear that you will impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

SEC. 5. Parties personally interested shall be notified, and shall be permitted to cross-examine witnesses and introduce evidence, so as fairly to investigate the circumstances in question.

SEC. 6. These courts shall not give their opinion on the merits of the case unless specially required; but their proceedings shall

be signed by the president and judge advocate and transmitted to the commander in chief.

SEC. 7. They shall have the same powers in relation to the summoning and examination of witnesses, and the preservation of order, as courts martial, and shall be entitled to the same fees for their services, to be allowed and paid in the same manner.

CHAPTER 101.

OF THE INCORPORATION OF MILITARY COMPANIES.

IDENTICAL WITH

Chapter 98 of the Revised Statutes.

SECTION

1. Companies may assume corporate powers.
2. Extent of their powers.

SECTION

3. By-laws.
4. Legislature may abolish.

SECTION 1. Any company of cavalry, artillery, grenadiers, light infantry or riflemen duly organized according to law, may assume a name and style by which such company may be known and distinguished in law, give notice thereof in writing to the adjutant general, and give public notice thereof by publishing the same in some newspaper, if any in the county, otherwise in an adjoining county; and shall then become a body politic and corporate.

SEC. 2. Such incorporated companies shall have the powers and be subject to the liabilities of similar corporations, and may hold real and personal estate to an amount not exceeding two thousand dollars.

SEC. 3. They may make such by-laws and regulations relative to the enlistment, uniform and equipment of the company, consistent with the laws, as they may think proper; but no taxes or assessments shall be raised but by consent of two thirds of the members.

SEC. 4. The legislature may at any time abolish or modify such corporations as they may deem the public interest to require.

TITLE XIII.

OF THE INSPECTION AND SALE OF PROVISIONS AND MERCHANDISE, AND THE REGULA- TION OF TRADE.

- CHAPTER 102. Of the appointment and duties of inspectors.
 CHAPTER 103. Of the inspection of flour.
 CHAPTER 104. Of the inspection of beef and pork.
 CHAPTER 105. Of the inspection of butter and lard.
 CHAPTER 106. Of the inspection of hops.
 CHAPTER 107. Of the inspection of fish.
 CHAPTER 108. Of the inspection of pot and pearl ashes.
 CHAPTER 109. Of the inspection of lumber, &c.
 CHAPTER 110. Of the sale of hay, leather and cord wood.
 CHAPTER 111. Of measurers of grain in Portsmouth.
 CHAPTER 112. Of the weight of oats, potatoes and bread.
 CHAPTER 113. Of weights and measures.
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CHAPTER 102.

OF THE APPOINTMENT AND DUTIES OF INSPECTORS.

COMPILED FROM

Chapter 99 of the Revised Statutes.

" 707, Laws of 1848.

SECTION

1. Inspectors' term of office.
2. " how appointed.
3. " to be sworn and give bonds.
4. Deputies, appointment and duties.

SECTION

5. Oaths, by whom administered.
6. If vacancy occurs, deputies to act.
7. Word *inspector* to include *deputy in-*
specter.

SECTION 1. There shall be inspectors of beef and pork, of pot and pearl ashes, of butter and lard, of hops and of fish; and the inspectors now appointed shall hold their offices for the term of five years, unless sooner removed by the governor and council. (*R. S., sec. 1, as amended by laws of 1848, chap. 707, sec. 1.*)

SEC. 2. The said inspectors shall be appointed by the governor, with the advice and consent of the council, and shall hold their offices for the term of five years, unless sooner removed by the governor and council.

SEC. 3. Each inspector before entering upon the duties of his office, shall be sworn to the faithful discharge thereof and shall give bond to the State, with sufficient sureties to the satisfaction of the treasurer thereof, in the sum of two thousand dollars.

SEC. 4. Each inspector shall appoint so many deputy inspectors as may be necessary, removable at his pleasure, and for whom he shall be answerable; each of whom before entering upon the duties of his office shall be sworn to the faithful discharge thereof and shall give bond to him, with sufficient sureties, in a sum not exceeding one thousand dollars, and shall once in six months or oftener, if requested, make such returns to him as he may require.

SEC. 5. All oaths required by this chapter to be taken by any deputy, may be administered by the inspector, and all oaths required to be taken in the inspection of provisions or merchandise, may be administered by the inspector or any deputy, or in either of said cases by any justice of the peace.

SEC. 6. If any vacancy shall occur in the office of inspector, his deputies shall continue to perform their duties, and shall possess the same powers and be subject to the same liabilities as if no vacancy had occurred until an inspector shall be appointed and duly qualified.

SEC. 7. The word *inspector* in this title may include deputy inspector.

CHAPTER 103.

OF INSPECTION OF FLOUR.

IDENTICAL WITH
Chapter 1293, Laws of 1852.

SECTION

1. Inspector, how appointed; to hold his office five years.
2. Flour, how branded.
3. Suspected and damaged to be re-inspected, &c.
4. Penalty for knowingly offering for sale flour undermarked, deficient, or falsely purporting to be inspected.
5. Penalty for counterfeiting and using empty casks, with the former inspection mark.

SECTION

6. Penalty for knowingly offering for sale flour with a mixture of Indian meal, &c.
7. Inspector not to be interested in the sale or manufacture of flour.
8. Inspector to be sworn, and certificate of oath to be filed in secretary's office.
9. Fees of inspector.

SECTION 1. The governor, with advice of council, may appoint in any city or town in this State, where the same shall be

deemed necessary, one or more inspectors of flour, to continue in office during five years, unless sooner removed by address of the legislature.

SEC. 2. Every cask of wheat flour shall be branded as follows : if of a very superior quality, with the word "extra superfine;" if of a superior quality, with the word "fancy;" if of a quality now branded as superfine, with the word "superfine;" if of a fourth quality, with the word "fine."

SEC. 3. When flour has been put up in suitable casks and branded according to the provisions of the preceding section, application may be made to an inspector of flour to inspect the same; and it shall be his duty to examine and determine the quality of the flour, to ascertain the weight of all casks he may suspect of being falsely tared, to alter and correct the brands in all cases when in his opinion they do not designate the real quality of the flour, to weigh such casks as he shall suspect do not contain the full weight of one hundred and ninety-six pounds of flour to the barrel, and if they do not contain the full weight to brand them with the word "light," to brand all casks containing flour so damaged as not to be fit for use with the word "bad," and on all casks properly put up and branded agreeably to the provisions of this act, to brand in a legible manner on the heads thereof the initials of his christian name and his surname at full length, together with the name of the city or town where the inspection has been made.

SEC. 4. Every person knowingly offering for sale any cask of flour upon which the tare shall be undermarked, or in which there shall be a less quantity of flour than is branded thereon, or which shall purport to have been legally inspected and shall not have been so inspected, shall forfeit five dollars for every cask so undermarked, deficient, or falsely purporting to have been legally inspected, one half to the use of the person who shall be injured and prosecute for the same, and the other half to the use of the county where the prosecution shall be had.

SEC. 5. Every person who shall alter or counterfeit any brand marks made under the provisions of this act, or who shall put any flour into an empty cask branded by an inspector and offer the same for sale in such cask as duly inspected flour, shall forfeit the sum of one hundred dollars for every cask the brands of which shall be so altered or counterfeited, and five dollars for every cask so put into an empty cask branded by an inspector and offered for sale as aforesaid.

SEC. 6. Every person who shall knowingly offer for sale as good wheat flour, any flour which shall be found to contain a mixture of Indian meal, or any other mixture, or any unsound flour, shall forfeit for every cask the sum of five dollars.

SEC. 7. No inspector of flour shall be in any manner connected in business or trade with any flour manufacturer, or flour merchant, or act as agent for any such manufacturer or merchant, or any other person, in the purchase or sale of flour, under penalty of

five hundred dollars, and the forfeiture of his office, and incapacity forever thereafter of holding the same.

SEC. 8. Every inspector of flour appointed under this act, before entering upon the duties of his office, shall be sworn to the faithful discharge thereof, a certificate of which oath shall be filed in the office of the secretary of state.

SEC. 9. Every inspector of flour shall be entitled to receive, for inspecting, branding and plugging every barrel and half barrel of flour, the sum of one cent.

CHAPTER 104.

OF THE INSPECTION OF BEEF AND PORK.

COMPILED FROM

Chapter 100 of the Revised Statutes.

" 34, Laws of 1843.

SECTION

1. No beef or pork to be exported unless inspected.
2. Inspector shall attend when required.
3. " to make return annually.
4. Quality of beef to be packed.
5. Sorts and denominations of beef.
6. Beef, how to be salted.
7. Beef, &c., for U. S., excepted.
8. Quality of casks, and their contents.
9. Beef, how branded.
10. Pork to be inspected before exportation.
11. Pork, how to be salted.
12. Quality of barrels, &c., and their contents.
13. Pork, how branded.
14. Penalty for inspecting out of district.
15. Penalty for counterfeiting inspector's brand.

SECTION

16. Fees of inspection.
17. Penalty for neglect or fraud of inspector.
18. Penalty for intermixing or shifting.
19. Certificate of inspection for clearance.
20. Oath to be taken by master.
21. Fees for such certificate.
22. Penalty for shipping beef or pork not inspected.
23. Justice may issue warrant, or seizure may be made without warrant.
24. Proceedings in case of seizure.
25. Coastwise shipments embraced.
26. Weighers of beef, when and how appointed.
27. Weighers to give certificate.
28. Fees for weighing and certificate.
29. Penalty for purchasing without weighing.

SECTION 1. No person shall ship or export from this State any salted beef except in tierces, barrels or half barrels, excepting rounds of beef, in kegs or tubs having the name of the owner and the town in which he resides, branded on one head of each keg or tub, nor any salted pork except in barrels or half barrels, each of the quality, weight and dimensions hereinafter provided, nor unless the contents thereof are inspected and packed, and the casks branded agreeably to the provisions of this chapter.

SEC. 2. The inspector or any deputy, when requested, shall attend as soon as may be at any suitable place within the county in which he resides, for the purpose of inspecting beef or pork, and shall see that the same is properly weighed, packed and salted.

SEC. 3. The inspector shall annually on or before the first Wednesday of June, make a return to the governor of the whole number of tierces, barrels and half barrels of beef, and barrels and half barrels of pork, inspected by him or his deputies during the year preceding, designating the different sorts of beef and pork and the place at which each was inspected.

SEC. 4. No beef shall be packed in tierces, barrels or half barrels for exportation, unless it be of fat cattle not under two years old; and all such beef shall be cut into pieces as nearly square as may be, and of not more than eight pounds nor less than four pounds in weight.

SEC. 5. All beef which the inspector or his deputy shall on examination find to have been killed at a proper age, and to be fat and otherwise good and merchantable, shall be divided into four different sorts to be denominated and the casks branded respectively, *mess beef*, *No. 1 beef*, *prime beef* and *cargo beef*.

Mess beef shall consist of the choice pieces of oxen or steers well fattened and weighing five hundred pounds or upwards; the shin, shoulder, clod and neck shall be taken from each fore quarter, and the leg and the leg rand from each hind quarter; and each cask containing beef of this description shall be branded on one of the heads with the words, *mess beef*.

No. 1 beef shall consist of the choice pieces of oxen, steers, cows or heifers not under four hundred pounds weight, without any necks or shanks, and on one head of each cask containing beef of this description shall be branded the words, *No. 1 beef*.

Prime beef shall consist of fat cattle of all descriptions not before mentioned, (bulls excepted) of two years old and upwards, with not more than half a neck and two shanks to each barrel, without any hocks, and the same proportion to the tierce and half barrel, and each cask containing beef of this description shall be branded, *prime beef*.

Cargo beef shall consist of those pieces which are excluded from *mess*, *No. 1*, and *prime beef*, together with the end of the necks and the hocks, and also such cattle as are excluded from the same, and each cask containing beef of this description shall be branded, *cargo beef*. (*R. S.*, sec. 5, as amended by laws of 1843, chap. 34, sec. 6.)

SEC. 6. Every barrel of beef shall be well salted with seventy-five pounds of clean St. Ubes, Isle of May, Lisbon or Turk's Island salt or other salt of equal quality, or eighty pounds of coarse Liverpool salt or other salt of equal quality, exclusive of a pickle made of fresh water as strong as salt can make it, to which shall be added six ounces of saltpetre to each barrel of *mess beef*, and four ounces to each barrel of *No. 1*, *prime* or *cargo beef*; and to

each tierce and half barrel, exclusive of said pickle, shall be put salt and saltpetre in the like proportions, according to the quantity and sorts of beef packed therein.

SEC. 7. Whenever beef shall be put up for the government of the United States, the inspector or his deputy may inspect the same according to contract and brand the same, *navy* or *navy mess*.

SEC. 8. Every tierce, barrel and half barrel in which beef shall be packed for exportation, shall be made of good seasoned white oak or white ash staves and heading, of rift timber free from any defect; each tierce shall contain three hundred pounds, each barrel, two hundred pounds; and each half barrel one hundred pounds of beef; each barrel shall measure sixteen and a half inches between the chimes and twenty-eight inches in length, and the half barrels shall not contain less than fifteen gallons; the tierces, barrels and half barrels shall be covered three fourths of their length with good oak, ash or walnut hoops which shall be well set and driven together, leaving one fourth in the middle of the cask uncovered, and the heads shall be of a proper thickness.

SEC. 9. Every tierce, barrel and half barrel, in which beef is packed for exportation, shall be legibly branded with the first letter of the christian name and the whole of the surname of the inspector who shall have inspected the same, the name of the town where it was inspected, the abbreviation *N. H.*, the name of the person for whom packed and the year of the inspection.

SEC. 10. All pork packed in barrels or half barrels for exportation, shall be sorted by the inspector or his deputy, and denominated and branded respectively, *extra clear*, *clear*, *bone middlings*, *mess*, *navy mess*, *No. 1 prime*, and *cargo pork*, and in all cases the following pieces shall be taken out as refuse, viz: nose pieces, ears, brains, tails, feet and lard.

Extra clear pork shall consist of the clear pork from well fattened hogs weighing not less than three hundred pounds each, excluding heads, necks, shoulders, legs, chine bones and spare ribs, and the lean and blades from the backs of shoulders.

Clear pork shall consist of the clear pork from well fattened hogs weighing not less than two hundred and fifty pounds each, excluding heads, necks, legs, shoulders, chine bones, spare ribs and the lean and blades from the backs of shoulders.

Bone middlings shall consist of middle pieces taken from hogs well fattened, and weighing two hundred and thirty pounds or upwards.

Mess pork shall consist of the pork of well fattened hogs weighing not less than two hundred pounds each, and excluding heads, necks, legs and shoulders.

Navy mess pork shall consist of all parts of the carcass of well fattened hogs weighing not less than one hundred and sixty pounds, except the head, fore and hind legs, shoulder joint, lard, and the refuse parts aforesaid.

No. 1 pork shall consist of all parts of hogs well fattened, averag-

ing two hundred and twenty pounds or upwards, and none of which shall weigh less than one hundred and eighty pounds each, with no more heads, legs, shoulders or other coarse parts than belong to one carcass, and excluding the refuse aforesaid.

Prime pork shall consist of all parts of one hog and a half well fattened, which shall weigh two hundred pounds, deducting the refuse aforesaid, and *prime pork* in half barrels shall consist of pig pork, all parts of one carcass or not, but not to contain the head or legs of more than one carcass.

Cargo pork shall consist of all other kinds of pork of an unmerchandiseable but wholesome quality.

All barrels or casks filled with pork heads or feet, shall be legibly branded, *pork heads* or *pork feet*, as the case may be.

If any leg of pork shall be taken from any barrel, its place shall be supplied by the shoulder from a hog weighing not less than two hundred and fifty pounds, and any deficiency of such shoulder in weight shall be made up of pieces not less valuable than such leg.

SEC. 11. Each barrel of pork shall be well salted with seventy pounds of clean coarse salt, in addition to a strong pickle and saltpetre, and each half barrel in the same proportion.

SEC. 12. Every barrel and half barrel in which pork shall be packed for exportation, shall be made of good seasoned white oak or white ash staves and heading, of rift timber free from defect; each barrel shall contain two hundred pounds, and each half barrel one hundred pounds weight of pork; each barrel shall be seventeen and a quarter inches between the chimes, and contain not less than thirty-one and a half gallons, and all the barrels and half barrels shall be covered three fourths of the length thereof with good oak, ash or walnut hoops, leaving one fourth of the space in the centre of each uncovered.

SEC. 13. All barrels and half barrels of pork packed for exportation, shall be legibly branded on one head with the first letter of the christian name and the whole of the surname of the inspector who has inspected the same, the name of the town where it was inspected, and the abbreviation *N. H.*, the quantity and quality of pork in each, and the first six sorts aforesaid, with the name of the person for whom it was packed.

SEC. 14. If any deputy appointed under this chapter shall inspect or brand any cask of beef or pork out of the limits of the town or of the county for which he shall be appointed, he shall forfeit fifty dollars for each offence.

SEC. 15. If any person other than said inspector or his deputy shall inspect or brand any cask of beef or pork in the manner directed in this chapter, he shall forfeit fifty dollars for each cask so unlawfully branded.

SEC. 16. The inspector or his deputy shall receive for each tierce of beef inspected and branded, twelve and a half cents, for each barrel of beef or pork so inspected and branded, ten cents, and for each half barrel six cents, exclusive of cooperage, which

sums shall be paid by the shipper. The inspector shall receive from his deputy four cents for each tierce, three cents for each barrel, and two cents for each half barrel of beef or pork inspected or branded by him. The payment of the fees of inspection of any beef or pork shall, if required, be secured to the inspector or deputy before the same is branded.

SEC. 17. If the inspector or his deputy shall be guilty of any neglect or fraud in inspecting any beef or pork, contrary to the true intent of this chapter, or shall brand any cask not actually by him inspected, he shall forfeit ten dollars for each cask in respect to which such offence is committed.

SEC. 18. If any person shall intermix, take out or shift any beef or pork from any cask legally inspected or branded, or put into the same any other beef or pork for exportation, contrary to the intent of this chapter, he shall forfeit for each offence twenty dollars.

SEC. 19. No salted beef or pork shall be exported from this State, unless the master or owner of the vessel in which the same shall be exported, shall produce to the collector, or some other officer authorized by the laws of the United States to clear vessels out, a certificate from the inspector or his deputy, that the same has been inspected and branded according to law; and each certificate shall express the number of tierces, barrels and half barrels of beef or pork of each sort.

SEC. 20. Such master or owner, on producing said certificate, shall take and subscribe the following oath before the clearance officer aforesaid:

"I, A. B., of _____, do swear that according to the best of my knowledge and belief, the certificate hereunto annexed, contains the whole quantity of salted beef and pork on board the _____, master, and that no salted beef or pork is shipped on board said vessel for the ship's company, on freight or on cargo, but what is inspected and branded according to the laws of this State. So help me God."

SEC. 21. The inspector or his deputy shall receive for such certificate twenty-five cents for a quantity not exceeding one hundred tierces, barrels or half barrels of beef or pork; fifty cents if the quantity exceeds one hundred and is less than two hundred; and one dollar if it exceeds two hundred tierces, barrels or half barrels, and he shall give such certificate on payment of said fees, whenever requested so to do.

SEC. 22. If any person shall export or ship for exportation from this State any salted beef or pork not inspected and branded according to law, every such exporter or shipper shall forfeit six dollars, and the master of each vessel having on board such uninspected beef or pork shall forfeit two dollars for each cask so shipped or exported.

SEC. 23. Any justice on complaint filed that any beef or pork is so shipped, may issue his warrant directed to any proper officer

requiring him to seize and secure the same for trial, or any inspector or deputy may make such seizure without warrant.

SEC. 24. The complainant or the person making the seizure, shall as soon as may be file an information or libel thereon in some court proper to try the same, in the manner provided in the twenty-fifth title of the revised statutes.

SEC. 25. All the provisions, penalties, regulations and requirements contained in the foregoing sections, shall extend to all beef or pork transported or intended to be transported coastwise from any port or place in this State to any of the United States, or shipped on board any vessel for any purpose whatever.

SEC. 26. The selectmen of every town where beef cattle are sold for the purpose of market or barrelling, shall appoint one suitable person or more, who shall be conveniently situated in such town and not dealers in cattle, to be weighers of beef, who shall be sworn to the faithful discharge of the duties of said office.

SEC. 27. All beef sold as aforesaid shall be weighed by such sworn weigher, and a certificate of the weight of all the beef, hide and tallow of each head of cattle, unless otherwise requested by the seller, in the form following, shall be signed by such weigher and delivered to the seller on payment of the fees therefor:

FORM OF CERTIFICATE.

This certifies that I have fairly and properly weighed the cattle
bought by of from of
this day of 18

Number of head,							
Beef,							
Hide,							
Tallow,							
Total weight,							

Sworn Weigher.

SEC. 28. The weigher shall receive for the first six head of cattle weighed, seventeen cents per head; for the second six head weighed, twelve and a half cents per head; for all over twelve and under twenty head, eight cents per head; and for all over twenty head, five cents per head; which shall be paid by the buyer of such cattle, and twelve and a half cents for each certificate, which shall be paid by the seller.

SEC. 29. If any butcher or purchaser of beef cattle intended for market or barreling, shall cause any such beef cattle to be weighed contrary to the intent of this chapter, he shall forfeit fifty dollars for each offence, to be recovered by action of debt, one half to the use of the prosecutor and the other half to the use of the county; but nothing herein contained shall prevent any

person from buying or selling cattle on the hoof, or from determining the weight of such cattle in any mode agreed on by the parties.

CHAPTER 105.

OF THE INSPECTION OF BUTTER AND LARD.

IDENTICAL WITH

Chapter 101 of the Revised Statutes.

SECTION

1. Butter and lard for exportation shall be inspected.
2. Manner of inspecting.
3. Casks and firkins, how branded.
4. Quality and size of casks.
5. Casks to be filled with brine before packing, weighed and branded.
6. Fees for inspection.
7. Certificate to be produced before clearance.
8. Oath of master.

SECTION

9. Fees for certificate.
10. Penalty for exporting butter or lard not inspected.
11. Justice may issue warrant to seize, when.
12. Inspector may seize, proceedings.
13. Penalty for neglecting to inspect.
14. " " counterfeiting brand.
15. " " shifting any cask.
16. Fees paid by deputies to the inspector.

SECTION 1. The inspector or some deputy shall inspect and prove all butter and lard in casks, firkins or kegs that shall be intended for exportation, and no person shall ship any of these articles for exportation before the same shall have been inspected.

SEC. 2. The inspector or his deputies shall examine the casks, kegs or firkins containing butter or lard intended for exportation, and with a hollow iron searcher shall perforate the contents of said casks, kegs or firkins, diagonally from one head to the other, and thereby draw out so much of the article as shall determine the quality of the whole; he shall see that such butter has been preserved with a due proportion of good fine salt, and that each article is sweet and in all respects fit to be exported to any foreign market without danger of spoiling; and the butter or lard so drawn out shall be returned thereto forthwith.

SEC. 3. Each cask, keg or firkin of butter or lard which, according to the best judgment of the inspector, appears to be good and fit to be exported as aforesaid, shall be branded in plain, legible letters with the words *butter*, or *lard*, and *first*, or *second*, or *third*, according to the article and quality; and all other kinds with the word *refuse*; each cask, keg or firkin so inspected shall also be branded with the abbreviation *N. H.*, the name of the town where it is inspected, and the initial letter of the christian name and the whole of the surname of the inspector.

SEC. 4. Every cask, keg or firkin in which butter or lard shall be packed for exportation, shall be made of sound, well seasoned white oak or white ash staves and heading, full bound, and either fifteen inches in length and ten and a half inches diameter in the head, twelve and a half inches in length and eight and a half inches diameter in the head, twelve inches in length and seven and a half inches diameter in the head, or ten inches in length and six inches diameter in the head.

SEC. 5. Each cask, keg or firkin, before any butter or lard shall be packed therein, shall be filled with a strong brine which shall remain therein three days; and as soon as the brine is emptied from the cask, keg or firkin, it shall be weighed by the owner of the butter or lard to be packed therein, who shall with a marking iron mark on one of the heads thereof the full weight of such cask, keg or firkin, and shall brand thereon the initial letter of his christian name and the whole of his surname; and if he shall falsely mark the same, he shall forfeit three dollars for each offence.

SEC. 6. The inspector or any deputy for his services in inspecting, weighing, branding and delivering to the owner an invoice or weigh note under his hand of the weight of each cask, keg or firkin so inspected, shall receive seven cents for each cask, keg or firkin, to be paid by the purchaser of the same before the delivery of such certificate.

SEC. 7. No butter or lard shall be exported from this State, unless the master or owner of the vessel produces to the collector or other officer authorized by law to clear vessels out, a certificate from the inspector or some deputy that the same has been inspected, marked and branded according to law; each certificate shall express the number of casks and their weight.

SEC. 8. The master or owner, on producing said certificate, shall take and subscribe the following oath before such officer:

"I, A. B., of _____, do swear that according to the best of my knowledge and belief, the certificate hereto annexed, contains the whole quantity of butter (or lard, as the case may be,) on board the _____, master, and that no butter (or lard, as the case may be,) is shipped on board said vessel for the ship's company, on freight or on cargo, but what is inspected, marked and branded according to the laws of this State. So help me God."

SEC. 9. The inspector or his deputy shall receive thirty cents for each certificate so given, and shall give the same when required.

SEC. 10. If any person shall export or ship for exportation from this State any butter or lard not inspected, marked and branded as required by this chapter, such exporter or shipper shall forfeit one dollar and the master of the vessel shall forfeit fifty cents for every cask, keg or firkin of butter or lard uninspected, shipped or exported as aforesaid.

SEC. 11. Any justice of the peace, upon information filed that any butter or lard not inspected as aforesaid is put on board any

vessel for exportation shall issue his warrant directed to the sheriff, his deputy or some constable, requiring such officers to seize such butter or lard and to secure the same for trial.

SEC. 12. The inspector or any deputy having information of any butter or lard being laden in any port or place in this State for exportation, not being in conformity to the provisions of this chapter, may make seizure thereof forthwith, or file a libel or information therefor in any court proper to try the same; and upon trial of the butter or lard so seized, it shall be condemned if a breach of this chapter is proved, and shall be forfeited to the use of the officer seizing and prosecuting for the same.

SEC. 13. If the inspector or any deputy, on application made for the examination of any butter or lard as aforesaid, shall unreasonably refuse, neglect or delay for the space of three hours after such application to proceed to such examination and inspection, the inspector so refusing, neglecting or delaying shall forfeit for each offence two dollars.

SEC. 14. If any person shall counterfeit any brand belonging to or proper to be used by the inspector or his deputy, or shall impress or brand any cask, keg or firkin of butter or lard with any brand of such inspector or with any counterfeit brand as aforesaid, he shall forfeit for each offence ten dollars.

SEC. 15. If any person shall empty any cask, keg or firkin of butter or lard inspected or branded as aforesaid, and put in any other butter or lard for sale or exportation, without first cutting out such brands and marks, he shall forfeit for each cask, keg or firkin ten dollars.

SEC. 16. The inspector shall receive from each deputy two cents for each cask, keg or firkin inspected and branded by such deputy according to this chapter.

CHAPTER 106.

OF THE INSPECTION OF HOPS.

IDENTICAL WITH

Chapter 102 of the Revised Statutes.

SECTION

1. Hops not to be exported before inspection.
2. Hops, when merchantable and how packed.
3. Hops, how inspected and marked.

SECTION

4. Fees of inspection.
5. Penalty for neglect to inspect.
6. " " fraud in inspection.
7. " " intermixing or shifting.
8. " " counterfeiting mark.

SECTION

9. Penalty for putting in other hops.
10. Certificate for clearance to be obtained.
11. Oath of master.

SECTION

12. Penalty for violation of law.
13. Inspector may seize hops.
14. Hops sent by inland carriage excepted.

SECTION 1. No hops shall be shipped or exported from this State unless the same are duly inspected, packed and marked, and of the quality herein mentioned: they shall be in square bags, each bag to contain two hundred pounds of merchantable hops as near as may be.

SEC. 2. No hops shall be deemed merchantable unless they have been well picked, are free from stems and leaves and dried on a kiln; and the bags in which they are packed shall be made sufficiently strong to preserve the hops from damage, and of such a texture as will fairly receive the marks of the cultivator and inspector; and each bag shall be marked with the name of the cultivator and of the town in which he lives.

SEC. 3. The inspector or his deputy shall examine the contents of every bag of hops intended to be exported, in such manner as to ascertain the quality of such hops, and if found merchantable as before prescribed, and firmly packed, and that they have been so packed at least ten days previous to such examination, and that the bags are such as have been prescribed, he shall distinguish the same by marking them in legible characters with the words *first sort*, *second sort*, or *refuse*, as their quality may be; he shall also add the date of the year of which in his opinion they are the growth, the initial letter of his christian name, and the whole of his surname, and the letters *N. H.*

SEC. 4. The inspector shall receive for inspecting, marking, weighing and delivering an attested schedule of the same, at the rate of ten cents for every hundred pounds' weight so inspected, to be paid by the purchaser, exclusive of the charges of repacking and mending the bags when necessary, which shall be paid by the seller, and exclusive also of storage, if said hops should be stored by the inspector more than thirty days after being inspected; and such inspector shall have a lien on said hops for his fees until paid. Each deputy shall pay to the inspector one fifth part of all the fees by him received for inspecting as aforesaid.

SEC. 5. If the inspector or any deputy, on application made to him to examine any hops, shall unnecessarily neglect or delay to examine, mark and weigh the same, he shall forfeit for each offence five dollars.

SEC. 6. If the inspector or any deputy shall be guilty of any fraud in inspecting hops, contrary to the true intent of this chapter, or shall put his mark on any bag or package of hops which has not been actually examined, inspected and found merchantable, he shall forfeit twenty dollars for each bag or package so falsely marked.

SEC. 7. If any person shall intermix, take out or shift any hops from any bag inspected and marked as aforesaid, or shall put in any other hops for sale or exportation contrary to the true intent of this chapter, he shall forfeit fifty dollars for each offence.

SEC. 8. If any person shall counterfeit or alter any mark belonging to or proper to be used by any inspector of hops, or shall mark any bag of hops with any letter or mark aforesaid, he shall forfeit the hops so marked and also the sum of fifty dollars.

SEC. 9. If any person shall empty any bag of hops marked as by this chapter is required, and shall put in any other hops for sale or exportation without first cutting out said marks, he shall forfeit for each offence fifty dollars.

SEC. 10. No hops shall be shipped from this State, unless the master or owner of the vessel in which such hops are shipped shall produce to the collector or other officer authorized by the laws of the United States to clear vessels out, a certificate from the inspector or some deputy, (for which he may charge twenty-five cents before delivery,) that such hops have been duly inspected, marked and weighed agreeably to the laws of this State, and also the number of bags of each sort of hops and the weight of each bag.

SEC. 11. The master or owner, on producing such certificate to such officer shall take and subscribe the following oath :

"I, A. B., of _____, do swear that according to the best of my knowledge and belief, the certificate hereunto annexed contains the whole quantity of hops on board the _____, master, and that there are no hops on board said vessel for the use of the ship's company, on freight or on cargo, but what have been inspected and marked according to the laws of this State. So help me God."

SEC. 12. If any person shall export or ship for exportation out of this State any hops not marked and inspected as by law is required, such exporter or shipper shall forfeit twenty dollars, and the master of any vessel having the same on board shall forfeit ten dollars for every bag so shipped or exported.

SEC. 13. If any hops, not inspected and marked as aforesaid, shall be exported or shipped for exportation from this State contrary to the provisions of this chapter, any justice upon information may issue a warrant under his hand and seal directed to the sheriff, his deputy or some constable, requiring such officer to seize such hops and secure the same for trial.

SEC. 14. Nothing contained in this chapter shall be construed to affect any hops conveyed or transported from this State by inland carriage.

CHAPTER 107.

OF THE INSPECTION OF FISH.

COMPILED FROM

Chapter 103 of the Revised Statutes.

" 498, Laws of 1847.

" 499, " " 1847.

SECTION

1. Fish, how salted and preserved.
2. " " packed and pickled.
3. " " sorted and branded.
4. Mackerel, sorts and denominations of.
5. Casks, how branded.
6. Smoked fish, how packed.
7. " " " sorted.
8. " " " branded.
9. Quality of barrels, tierces and casks.
10. " " boxes.
11. Owner to furnish brand in certain cases.
12. Small fish packed whole, when.
13. Inspectors to make returns.
14. " fees.

SECTION

15. By whom paid.
16. Certificate for clearance to be procured.
17. Oath of master.
18. Penalty for putting or having on board a vessel fish not inspected.
19. Fish not inspected may be seized.
20. Penalty for branding fraudulently.
21. " " intermixing or shifting.
22. " " selling damaged fish.
23. Shelled fish, how packed.
24. Fish for sale within this State, how packed; weight and penalties.
25. Fish in kegs less than ten gallons excepted.

SECTION 1. The inspector of fish or some deputy shall see that all kinds of split pickled fish and fish for barrelling, intended for exportation, have been well struck with salt or pickle in the first instance, and preserved sweet, free from rust, taint or damage.

SEC. 2. Such fish as are in good order and of good quality, shall be packed in tierces, barrels or half barrels; the tierces to contain three hundred pounds, the barrels two hundred pounds, and the half barrels one hundred pounds of fish each; and shall be packed with good clean salt suitable for the purpose; and the casks after being packed and headed up with the fish and sufficient salt to preserve the same, shall be filled up with a clear strong pickle.

SEC. 3. Each cask shall be filled with fish of one and the same kind, and shall be branded *salmon, shad, alewives, herring*, or as the case may be; those of the best quality caught in the right season to be most approved and free from damage shall be branded *cargo No. 1*; those which remain after the best have been selected, being sweet, free from taint, rust or damage, shall be branded *cargo No. 2*; and the thinnest and poorest of those that are sweet and wholesome, shall be branded *cargo No. 3*.

SEC. 4. There shall be four numbers of mackerel; those of the best quality, not mutilated, measuring not less than thirteen

inches from the extremity of the head to the fork of the tail, free from rust, taint or damage, shall be branded *number one*. The next best quality, being not less than eleven inches measuring as aforesaid, free from rust, taint or damage, shall be branded *number two*. Those that remain after the above selections, if free from taint or damage, and not less than thirteen inches measuring as aforesaid, shall be branded *number three, large*. Those of the next inferior quality, free from taint or damage, not less than ten inches in length measuring as aforesaid, shall be branded *number three*. All other mackerel, free from taint or damage, shall be branded *number four*. (*Laws of 1847, chap. 499, sec. 1.*)

SEC. 5. The inspector shall also brand in plain, legible letters on the head of every such cask the initial letter of his christian name and the whole of his surname, the name of the town for which he is appointed, and the abbreviation *N. H.* All mackerel shall also be branded on each cask with the month in which the same is packed. (*R. S., sec. 4.*)

SEC. 6. All herring or alewives intended to be smoked and packed, shall be sufficiently salted and smoked to cure and preserve the same, and afterwards closely packed in the boxes in dry weather. (*R. S., sec. 5.*)

SEC. 7. All smoked alewives or herrings shall be divided and sorted by the inspector or some deputy, and denominated, according to their quality, *first sort* or *second sort*. The *first sort* shall consist of all the largest and best cured fish; the *second sort* of the smaller but well cured fish; and in all cases all fish which are belly broken, tainted, scorched, burned, slack salted or not sufficiently smoked, shall be taken out as refuse. (*R. S., sec. 6.*)

SEC. 8. Each box of alewives or herrings so inspected, shall be branded on the top by the inspecting officer with the first letter of his christian name and the whole of his surname, the name of the town where it was inspected, with the abbreviation *N. H.*, the quality, whether *first sort* or *second sort*, and the month and year in which they were so branded. (*R. S., sec. 7.*)

SEC. 9. All tierces, barrels and half barrels used for packing or containing pickled fish, shall be made of sound, well seasoned white oak, ash, red oak, spruce, pine or chestnut staves of rift timber, with heading of either of said kinds of wood well planed, sound and well seasoned, the heading, if of pine, to be free from sap; and shall be well hooped with at least three good and strong hoops on each bilge and three hoops on each chime; the barrel staves shall be twenty-eight inches in length and the heads seventeen inches between the chimes; the barrel shall contain not less than twenty-nine nor more than thirty gallons, the half barrels not less than fifteen gallons and the tierces not less than forty-five nor more than forty-six gallons; and each cask shall be made in a workmanlike manner, to hold pickle, and shall be branded on the side thereof near the bung, with the name of the maker or owner. (*R. S., sec. 8.*)

SEC. 10. All boxes used for packing and containing smoked alewives or herrings, shall be made of good sound boards, sawed and well seasoned, the sides, top and bottom of not less than half inch boards, and the ends of not less than three quarter inch boards, securely nailed with wrought or cut nails, and shall be seventeen inches in length, eleven inches in breadth and six inches in depth in the clear inside. (*R. S., sec. 9.*)

SEC. 11. Every person having fish for packing or pickling either in bulk, casks or boxes to the amount of twenty barrels or forty boxes in one season, shall furnish the inspector or one of his deputies with a branding iron containing the first letter of the owner's christian name and the whole of his surname, and the inspecting officer shall cause such name to be fairly branded on the head of every cask and on one end of every box of fish inspected for such person; if he shall refuse or neglect to furnish such brand, he shall forfeit three dollars for such neglect or refusal. (*R. S., sec. 10.*)

SEC. 12. All small fish which are usually packed whole with dry salt, shall be put in good casks of the size and materials above required for pickled fish, and shall be packed close, edgewise in the cask and well salted; the casks shall be filled full with the fish and salt, putting in no more salt than is necessary for the preservation of the fish; and the inspecting officer shall brand each cask with the name of the fish and the quality thereof, whether *first sort* or *second sort*, as in the case of smoked fish aforesaid. (*R. S., sec. 11.*)

SEC. 13. The inspector shall make return to the governor annually on or before the first Wednesday of June, of all the fish of every kind, whether in casks or boxes which have been inspected by him or his deputies during the year preceding, and each deputy shall seasonably furnish said inspector with a return of all the tierces, barrels, half barrels and boxes by him inspected and branded since his last return. (*R. S., sec. 12.*)

SEC. 14. The fees for inspection of and branding each cask or box of fish as provided by this chapter, shall be for each tierce fourteen cents, for each barrel nine cents, for each half barrel five cents, for each smaller cask or box three cents; for nailing each cask or box one cent, exclusive of the labor of packing and cooping; and twenty-five cents for each certificate thereof given; and the general inspector shall have and receive from his deputies the sum of four cents for each and every tierce, and one cent for each barrel or box, and one half cent for each half barrel or smaller quantity so inspected and branded by any of his deputies. (*Laws of 1847, chap. 498, sec. 1.*)

SEC. 15. These charges shall be paid by the owner or person employing the inspecting officer, and may by such person be recovered of the subsequent purchaser or exporter, in addition to the purchase or cost of the fish. (*R. S., sec. 14.*)

SEC. 16. No pickled fish or smoked alewives or herrings shall

be shipped or exported by water from this State in casks or boxes, unless the owner or master of the vessel shall produce to the collector, or other officer authorized by the laws of the United States to clear vessels out, a certificate from the inspector or some deputy that such fish has been inspected, packed and branded according to law, together with the number of tierces, barrels, half barrels and boxes thus shipped, the kind and quality of the fish they contain, the name of the vessel in which such fish are received for exportation, and the owner or master thereof. (*R. S., sec. 16.*)

SEC. 17. The master or owner on producing such certificate to such officer, shall take and subscribe the following oath:

"I, A. B., of _____, do swear, according to the best of my knowledge and belief, that the certificate hereunto annexed contains the whole quantity of pickled and branded fish, smoked alewives and herrings on board the _____, master, and that no fish is shipped on board said vessel for the ship's company, or on freight or cargo, but what is inspected and branded according to law. So help me God."

SEC. 18. If any person shall put or receive on board any vessel or other carriage of conveyance to transport the same from this State, any pickled or whole fish, or any smoked alewives or herrings packed in casks or boxes which are not inspected and branded according to law, he shall forfeit not less than two dollars nor more than ten dollars for every hundred pounds of pickled or whole fish, and one dollar for each box of smoked alewives, or herrings so uninspected.

SEC. 19. If any pickled or barreled fish, smoked alewives or herrings as aforesaid, shall be put on board any vessel, boat or carriage of conveyance, with intent to sell or export the same contrary to law, any justice of the peace may issue his warrant to the sheriff, his deputies or a constable, requiring such officer to seize and secure said fish and carry them to the inspector or deputy nearest to such vessel, boat or carriage, who shall open and inspect, pack and brand the same as is provided in this chapter, and shall detain the same until the expense and charges of seizure, inspection, packing and all other charges arising from such seizure shall be paid.

SEC. 20. If the inspector or any deputy shall brand any cask or box, the contents of which he has not inspected, packed, salted, coopered and nailed according to the provisions of this chapter, or shall permit any other person to use his brands in violation or evasion thereof, he shall forfeit twenty dollars for each cask or box so branded, and shall also be removed from office.

SEC. 21. If any person shall intermix, take out or shift any inspected fish packed and branded as aforesaid, or shall put in other fish for sale or exportation, he shall forfeit five dollars for each cask, package or box so altered; but if any casualty shall render it necessary to repack a cask or box of inspected fish, it shall in all cases be done by an inspector.

SEC. 22. If any person shall sell or export, or cause to be sold or exported within or from this State, any tainted or damaged pickled fish, or smoked alewives or herrings, he shall forfeit three dollars for every hundred weight of such pickled fish, and one dollar for each box of such smoked alewives or herrings which shall be thus sold or exported.

SEC. 23. All shelled clams or other shelled fish used for fish bait, hereafter offered for sale, shall be put in barrels or half barrels of the description required for pickled fish; and the casks shall be filled full and salted sufficient to preserve the same; if any person shall offer for sale any shelled fish aforesaid not packed agreeably to this section, he shall forfeit for each offence two dollars.

SEC. 24. All kinds of pickled fish which are packed in tierces, barrels or half barrels, and all smoked alewives or herrings packed in boxes for consumption within this State, and which are not subjected to be inspected and branded as provided in case of exportation, shall however be packed with only one kind of fish in each cask or box, and there shall be the same weight in each cask as hereinbefore provided; and for intermixing different kinds of fish in the same cask or box, or for short weight in any cask, the owner or seller shall forfeit the same sum hereinbefore provided for the like offence, if such fish were inspected.

SEC. 25. Nothing in this chapter contained shall extend to fish packed in kegs of less than ten gallons.

CHAPTER 108.

OF THE INSPECTION OF POT AND PEARL ASHES.

IDENTICAL WITH

Chapter 104 of the Revised Statutes.

SECTION

1. Pot and pearl ashes not to be exported before inspection.
2. How sorted and branded.
3. Inspector shall weigh and mark each cask.
4. Fees of inspection.
5. Quality and size of casks.
6. Manufacturer shall brand casks.
7. Penalty for branding falsely.
8. Penalty for neglect to inspect.

SECTION

9. Penalty for emptying or shifting casks.
10. Inspector may seize casks not branded.
11. Casks not branded, how forfeited.
12. Inspector may require aid, and penalty for refusal to aid or obstructing officer.
13. Penalty on master of vessel for having casks on board not branded.
14. May export coastwise by giving bond.

SECTION 1. No person shall ship any pot or pearl ashes for ex-

portation, unless the same shall have been duly inspected and branded by some inspector.

SEC. 2. The inspector shall start the pot or pearlash out of the casks, and carefully examine, try and inspect the same, and sort the same in three different sorts, if necessary, and shall put each sort by itself in tight, new casks, well hooped and coopered, which shall be branded in plain, legible letters with the words *first sort*, or *second sort* or *third sort*, the words *potash* or *pearlash*, as the case may be, the first letter of his christian name and the whole of his surname, the town where the same is inspected, and the abbreviation *N. H.* on each cask.

SEC. 3. The inspector at the time of starting pot or pearl ashes for inspection, shall weigh each cask and mark the weight with a marking iron on each head thereof.

SEC. 4. The inspector shall receive for starting, inspecting, sorting, repacking, weighing, putting the casks in good order and delivering to the owner an invoice or weigh note under his hand of the weight of each cask, six cents for every hundred weight so inspected, to be paid by the purchaser.

SEC. 5. Every cask in which pot or pearl ashes shall be packed for exportation, shall be made of sound, well seasoned oak or white ash staves and heading, full bound, twenty-nine inches in length, nineteen inches in diameter in the head and of such weight in proportion to its contents as will amount as near as may be, to four-teen per centum tare thereon.

SEC. 6. Every manufacturer of pot and pearl ashes within this State shall brand each cask containing the same, with the first letter of his christian name and the whole of his surname, and the name of the town where manufactured, before it shall be removed from the manufactory; if any person shall remove any cask before being branded as aforesaid, he shall forfeit one dollar for each cask so removed.

SEC. 7. If any person shall brand any cask of pot or pearl ashes manufactured by himself, with the name of any other person, or shall brand any such cask manufactured by another person with his own name, or shall counterfeit any brand belonging to or proper to be used by any inspector, or shall impress or brand any cask of pot or pearl ashes with any brand of any inspector or with any counterfeit brand, he shall forfeit for each offence one hundred dollars.

SEC. 8. If any inspector on application made for the examination of any pot or pearl ashes, shall unreasonably refuse, neglect or delay to make such examination and inspection for the space of three hours after any such application, he shall forfeit for each offence twenty dollars to any person who will sue therefor.

SEC. 9. If any person shall empty any cask of pot or pearl ashes inspected and branded as required by this chapter, and shall put in any other pot or pearl ashes for sale or exportation without

first cutting out the said brand marks, he shall forfeit for each offence one hundred dollars.

SEC. 10. Any inspector may enter any vessel lying in the harbor where such inspector is authorized to inspect pot or pearl ashes, and there search, and may seize, carry away and secure for trial every cask of pot or pearl ashes not inspected or branded as in this chapter is provided, which shall be forfeited.

SEC. 11. All casks seized as aforesaid, may be prosecuted to condemnation by the officer seizing the same, by libel in the court of common pleas in the county in which the same was seized, and after condemnation the same shall be sold at public vendue by the sheriff or his deputy, and after the payment of all charges one half of the residue of the proceeds of such sale shall be paid by him into the treasury of the county, and the other half to the inspector seizing the same.

SEC. 12. Any inspector may require necessary aid for searching for and seizing any casks aforesaid, and every person refusing or neglecting to give such aid when requested, shall forfeit five dollars for such refusal or neglect. If any person shall obstruct or hinder any inspector in making search or seizure as aforesaid, he shall forfeit for each offence three hundred dollars.

SEC. 13. If the master of any vessel shall receive on board any cask of pot or pearl ashes not branded as required by this chapter, he shall forfeit fifteen dollars for each cask so received.

SEC. 14. Any citizen of this State may export by water pot or pearl ashes to any port within the United States without inspection, by giving bond in a reasonable sum with sufficient surety to some inspector, conditioned that the same shall be landed in some port within the United States, and not shipped for any foreign market until duly inspected. Such person within six months from the date of said bond, shall produce to said inspector a certificate from the proper officer in some one of the United States that said pot or pearl ashes exported as aforesaid, have been duly inspected.

CHAPTER 109.

OF THE INSPECTION OF LUMBER, TIMBER, &c.

IDENTICAL WITH

Chapter 106 of the Revised Statutes.

SECTION

1. Surveyors and cullers, how chosen.
2. Duties of surveyors of lumber.
3. " " cullers of hoops and staves.
4. Standard thickness of plank.
5. Measurement of ship timber.
6. Shingles, how inspected and sorted.
7. " how branded.
8. Clapboards, how inspected and sorted.

SECTION

9. Staves, hoops, &c., how inspected.
10. Fees for inspection.
11. Penalty for exporting lumber not inspected.
12. Penalty for exporting shingles not inspected.
13. Penalty for fraud of surveyor.
14. Penalty for neglect of surveyor.

SECTION 1. One or more surveyors of lumber and cullers of hoops and staves shall be chosen by the inhabitants of each town at their annual meeting, who shall be skilled in such business, and shall hold their offices one year and until others are chosen in their stead.

SEC. 2. The surveyor of lumber shall survey all plank, boards, spars, slitwork, shingles, clapboards and timber previous to the sale thereof, and shall measure the same if necessary, having due consideration for drying and shrinking, making reasonable allowance for rots, knots and splits; he shall mark the same anew to the just contents thereof, if requested by the seller or purchaser, and give a certificate of the quantity and sorts, if required, on payment therefor.

SEC. 3. The cullers of hoops and staves shall view and cull all hoops, staves and heading previous to the exportation thereof, and shall give a certificate of the quantity on payment therefor.

SEC. 4. The standard of the thickness of merchantable plank shall be two inches, and when any plank of a different thickness shall be purchased, it shall be admeasured and calculated by that standard.

SEC. 5. All round ship timber shall be measured according to the following rule, viz: a stick of timber sixteen inches in diameter and twelve inches in length shall constitute one cubic foot, and in the same ratio for any other size and quantity: forty feet shall constitute one ton.

SEC. 6. All shingles offered for sale in this State shall be straight, four inches wide, free from shakes and worm holes; shall be split or sawed in a longitudinal direction crosswise the grain, and shall be designated and known according to their quality as No. 1, No. 2, No. 3 or refuse.

Shaved shingles No. 1 shall be eighteen inches long, seven sixteenths of an inch thick at the butt end; shall be free from knots and sap and shall be breasted.

No. 2 shall be at least seventeen inches long, three eighths of an inch thick at the butt end and clear of knots and sap.

No. 3 shall be at least fifteen inches long, three eighths of an inch thick at the butt.

Sawed shingles No. 1 shall be clear of knots, shakes and sap.

No. 2 shall be free from shakes and sap, and clear of knots eight inches from the butt end.

No. 3 shall be free from shakes and unsound knots.

Refuse shall consist of such shingles as will not pass inspection for either of the above classes, unless in the opinion of the surveyor they shall be so inferior as to be worth less than half the price of No. 1, in which case they shall be branded O.

SEC. 7. No shingles shall pass inspection, unless so packed as to contain by admeasurement one quarter of a thousand in each round bunch, and either one thousand or one half of one quarter of a thousand in each square bunch. Each bunch or bundle shall be branded upon the butt No. 1; No. 2; No. 3; *Refuse* or O according to the quality, and also with the abbreviation *N. H.*; which brand last mentioned shall be furnished by the town.

SEC. 8. All shaved pine clapboards shall be made of good sound timber, clear of sap, and all shaved clapboards shall be free from shakes and worm holes, straight, well shaved and of the following dimensions, viz: full five eighths of an inch thick on the back, five inches wide and four feet six inches long.

All sawed clapboards shall be of the following descriptions, and shall be known as *clear*, *sap-clear*, or *merchantable*. *Clear clapboards* shall be sawed from good timber and shall not be less than four feet two inches in length, five inches in width and half an inch thick on the back, and shall be free from knots, worm holes, shakes and rots. Pine clapboards shall also be free from sap. *Sap-clear clapboards* shall be of the same dimensions and quality as the *clear clapboards*, but need not be free from sap. *Merchantable clapboards* shall be of the same length, from four to five inches wide, and shall be free from rots, shakes, worm holes and broken or loose knots. Two pieces of either of the above descriptions, neither of which shall be less than thirty inches long, or three pieces neither of which shall be less than two feet long, shall be allowed and counted as one clapboard; but there shall be at least ninety whole clapboards in every hundred.

SEC. 9. All white oak butt staves shall be at least five feet in length, five inches wide, and one inch and a quarter thick on the heart or thinnest edge and every part thereof.

All white oak pipe staves shall be at least four feet eight inches long, four inches broad in the narrowest part and not less than one inch thick on the heart or thinnest edge.

All white oak hogshead staves shall be at least forty-two inches long, and not less than three quarters of an inch thick on the heart or thinnest edge.

All white oak barrel staves for foreign market shall be thirty-two inches long, and for home use shall be thirty inches long, and all shall be half an inch thick on the heart or thinnest edge.

All white oak hogshead and barrel staves shall be at least, one with another, four inches in breadth, and none less than three inches in breadth in the narrowest part, and those of the last breadth shall be clear of sap.

All red oak hogshead and barrel staves shall be of the same length, width and thickness with the white oak hogshead and barrel staves aforesaid.

All staves shall be well and proportionably split.

All shooks shall be forty inches long and not less than two and a half inches wide at the ends, and full half an inch thick when dressed.

All white oak hogshead heading shall be one inch thick, thirty inches long and not more than five pieces to one head.

All hogshead hoops shall be made of white oak, brown ash or walnut, of good and sufficient substance, well shaved, and either ten, twelve or fourteen feet in length; the oak and ash hoops shall not be less than one inch broad, and the walnut hoops not less than three quarters of an inch broad at the least; all hoops of ten, twelve and fourteen feet respectively, shall be made up in distinct bundles by themselves containing twenty-five hoops each, and each bundle intended for exportation shall be branded on the band thereof with the brand of the town whence exported.

All hoops and staves shall hereafter be counted and sold by the decimal hundred.

SEC. 10. Surveyors and cullers shall receive the following fees: for surveying shingles and clapboards, four cents per thousand, to be paid by the buyer; for viewing and culling barrel staves, twenty-eight cents per thousand; for hogshead staves, thirty-four cents per thousand; for pipe staves, forty cents per thousand; for butt staves, forty-five cents per thousand; for shooks, one third of a cent each; for hoops, fifty cents per thousand; and for heading, thirty-three cents per thousand; the refuse to be counted in all cases as well as the merchantable; the fees for such survey to be paid by the owner, and the fees paid for the survey of the merchantable, to be by him recovered of the buyer; for surveying boards, timber and other lumber eight cents per thousand feet for viewing only, and eight cents per thousand feet additional for measuring and marking, and in the same proportion in all cases for a less quantity.

SEC. 11. If any person shall export or ship for exportation from this State any boards, staves, hoops, shooks, heading or clapboards not surveyed, culled, inspected and branded according to the provisions of this chapter, such person for each offence shall

forfeit one quarter part of the value of all articles so shipped or exported.

SEC. 12. If any person shall export or ship for exportation, any shingles branded O, or not branded according to law, he shall forfeit the same or the value thereof.

SEC. 13. If any surveyor or culler shall be guilty of any fraud or deceit in the surveying or culling of any boards, staves, hoops, shooks, heading, shingles, clapboards or timber, or shall connive at or allow of any breach of this chapter, he shall forfeit for each offence thirty dollars.

SEC. 14. If any surveyor or culler shall unreasonably refuse or neglect to attend to his duties upon tender of the fees therefor, he shall forfeit for each offence three dollars.

CHAPTER 110.

OF THE SALE OF HAY, LEATHER AND CORD WOOD.

IDENTICAL WITH

Chapter 107 of the Revised Statutes.

SECTION

1. Pressed hay, how branded.
2. Penalty if not branded.
3. Leather stamped by maker, effect.
4. Penalty for stamping fraudulently.

SECTION

5. Wood, how measured.
6. Measurers, their duties and fees.
7. Penalty for fraud or neglect.

SECTION 1. All pressed hay offered for sale in this State or shipped for exportation, shall be branded in some conspicuous place on each crate or bundle, with the first letter of the christian name or names and the whole of the surname of the person packing or pressing said hay, and with the name of the town and initials of the State where the same is pressed.

SEC. 2. If any person shall offer for sale or ship for exportation any crate or bundle of pressed hay not branded as aforesaid, he shall forfeit five dollars for each offence.

SEC. 3. Each manufacturer of leather shall have the exclusive right of stamping leather by him manufactured, with the initial letter of his christian name or names and the whole of his surname and the name of the town of his abode, and such stamp shall be deemed a warranty that the leather so stamped is merchantable, made of good materials and well manufactured.

SEC. 4. If any person shall fraudulently stamp any leather with the name or stamp of any other person or shall aid therein, he shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding six months, at the discretion of the court.

SEC. 5. All cord wood exposed to sale shall be either four feet, three feet or two feet long, including half the kerf; and being well and closely laid together, a quantity measuring eight feet in length, four in width and four feet in height, shall constitute one cord.

SEC. 6. Measurers of wood shall be chosen by each town at the annual meeting, who shall be duly sworn, and whose duty it shall be to measure any wood when requested and to give a certificate thereof, and for such measurement and certificate he shall be paid at the rate of four cents per cord, to be paid by the purchaser.

SEC. 7. If any measurer upon tender of his fees, shall unreasonably neglect or refuse to measure or certify any wood so brought to him for that purpose, or shall give any false certificate, he shall forfeit for each offence five dollars.

CHAPTER 111.

OF MEASURERS OF GRAIN IN PORTSMOUTH.

IDENTICAL WITH

Chapter 108 of the Revised Statutes.

SECTION

1. Measurers of grain, how chosen.
2. " " " their duty.
3. " " " their fees.

SECTION

4. Sealed measures to be used.
5. Penalty for fraud of measurer.
6. " for selling without measure.

SECTION 1. The selectmen of Portsmouth shall annually appoint one or more measurers of grain in said town, who shall be sworn to the faithful performance of their duty, and who shall hold their office until new ones shall be appointed and qualified.

SEC. 2. All corn and grain imported into said town by sea, shall be measured by one of said measurers, except where the quantity is less than ten bushels.

SEC. 3. The fees for measuring shall be as follows: for any quantity not exceeding fifty bushels, one cent per bushel, and for any quantity exceeding fifty bushels, one half cent per bushel, to be paid in all cases by the purchaser.

SEC. 4. Said measurers shall use no other measures than such as are specially provided for this purpose, and in strict compliance with the law.

SEC. 5. If any measurer shall use any deception in measuring any grain or corn, or shall give a fraudulent certificate of any measurement, the person injured may recover of said measurer four fold damages for the injury sustained, by an action on the case in any court proper to try the same.

SEC. 6. If any person importing corn or grain as aforesaid shall sell or dispose of any quantity thereof exceeding ten bushels, without having the same measured as aforesaid, he shall forfeit for each bushel so sold or disposed of, twenty cents, to be recovered by action of debt in the name and to the use of said town.

CHAPTER 112.

OF THE WEIGHT OF OATS, POTATOES AND BREAD.

COMPILED FROM

Chapter 109 of the Revised Statutes.

" 1130, Laws of 1851.

SECTION

1. Standard weight of oats.
2. " " of potatoes.
3. Mode of measuring may be agreed on.

SECTION

4. Bread to be sold by weight.
5. Weight of bread regulated.
6. Penalty for unlawful sale of bread.

SECTION 1. The standard weight of all oats offered for sale in this State, shall be thirty pounds per bushel.

SEC. 2. The standard weight of all potatoes offered for sale in this State, shall be sixty pounds per bushel. (*Laws of 1851, chap. 1130.*)

SEC. 3. Oats or potatoes may be measured in any other manner, if the parties interested shall so agree.

SEC. 4. All bread baked in loaves or biscuit which shall be exposed or offered for sale by any baker or other person, shall be sold by weight.

SEC. 5. All soft biscuit offered for sale, shall weigh either four or eight ounces each, and all loaves of soft bread shall be of the weight of half a pound, one, two, three or four pounds; and every soft loaf or biscuit shall be marked with the weight thereof, and with the initials of the christian name and the whole of the surname of the baker.

SEC. 6. If any baker or other person shall offer for sale any soft biscuit or loaf, which shall not in weight and mark conform to the provisions of the preceding section, he shall forfeit ten dollars for each offence.

CHAPTER 113.

OF WEIGHTS AND MEASURES.

COMPILED FROM

Chapter 110 of the Revised Statutes.

" 702, Laws of 1848.

" 706, " " 1848.

SECTION

1. Standard weights and measures for the State, how kept.
2. County sealers, how appointed.
3. " " their duties and fees.
4. Each town to be provided with a set of standard weights and measures.
5. Town sealer of weights, &c., how chosen.
6. Town sealer, his duties and fees.
7. Size of measures for charcoal.
8. Size of measures for articles sold by heaped measure.

SECTION

9. Penalty for using weights and measures not sealed or unjust.
10. Penalty on selectmen for not providing a set of standard weights, &c., for town.
11. Weights and measures, how sealed.
12. "Hundred weight" means one hundred pounds.
13. Weighers to weigh accordingly.
14. Penalty for weighing illegally.
15. Suits not to be commenced until notice.

SECTION 1. The set of standard weights and measures received from the secretary of state of the United States, and all scale beams, weights and measures owned by this State, shall be deposited in the office of the treasurer of this State, who shall receive and preserve the same.

SEC. 2. The governor, with the advice of the council, shall appoint a sealer of weights and measures for each county in this State, who shall be sworn to the faithful discharge of his duty, and shall hold his office until some other person shall be appointed and qualified in his stead.

SEC. 3. Each county sealer who is not already furnished with a full set of scale beams, weights and measures, shall, within three months from the passage of this act, provide them at the expense of the county, and shall try and prove them by the standards furnished to this State by the United States, and now deposited with the treasurer; and all county sealers who are now provided with such beams, weights and measures, shall, within three months, try and prove them in the same manner; and each county sealer in the State shall hereafter try and prove the county beams, weights and measures by the standards in the treasurer's office once in three years. He shall try and prove by said standards all scale beams, weights and measures brought to him for that purpose by any town sealer, and shall seal such as are found agreeable to such standards, and shall receive six cents for every scale beam,

steelyard, weight or measure so tried and proved, whether sealed or not sealed. (*Laws of 1848, chap. 706, sec. 1.*)

SEC. 4. The selectmen of each town in the State shall, within six months from the passage of this act, provide at the expense of the town, if not now provided, one full set of scale beams, weights and measures, which shall be kept and used as the standards of the town; and all town standards shall, within six months, be tried, proved and sealed by the county sealer; and shall hereafter be tried and proved in the same manner every three years. (*Laws of 1848, chap. 706, sec. 2.*)

SEC. 5. Each town in this State at its annual meeting shall choose a sealer of weights and measures in and for said town, who shall be sworn to the faithful discharge of his duty, who shall hold his office for one year, and until some other person is chosen and qualified in his stead.

SEC. 6. Such town sealer shall try and prove all scale beams, steelyards, weights and measures which shall be brought to him for that purpose, and shall seal all such as are agreeable to the town standards as aforesaid. He shall be paid for trying and proving, whether sealed or not, two cents for each scale beam, steelyard, weight and measure, except that after the first sealing he shall be paid one cent only for each, so long as they continue just with the standard.

SEC. 7. Every basket or other measure by which charcoal shall be measured or sold, shall not be less in its average diameter than twenty inches and of a depth sufficient to contain eighteen gallons, level measure, which shall be accounted two bushels or one strike.

SEC. 8. All measures by which meal, fruit and other things usually sold by heaped measure, excepting charcoal, shall be sold, shall be of the following dimensions: the bushel not less than eighteen inches and a half in diameter inside, the half bushel not less than thirteen inches and three quarters in diameter inside, the peck not less than ten and three quarters inches in diameter inside, and the half peck not less than nine inches in diameter inside.

SEC. 9. If any person shall sell or dispose of any goods, wares, merchandise, grain or other commodities by any scale beam, steelyard, weights or measures not proved and sealed as aforesaid, or shall fraudulently sell or dispose of any commodities by any scale beam, steelyard, weights or measures which have been sealed but are unjust, he shall forfeit for each offence not less than one dollar nor more than ten dollars, one half thereof to the use of the prosecutor, the other half to the use of the town in which the offence is committed.

SEC. 10. If the selectmen of any town shall neglect to procure a set of weights and measures for such town, as is hereinbefore provided, they shall forfeit one hundred dollars.

SEC. 11. The county sealer of weights and measures may use such seal as he may select, and a description thereof in writing

shall be first lodged in the office of the secretary of state. The town sealer shall use such seal as the town may agree on, a record of which shall be previously made in the town records.

SEC. 12. When any commodity shall be sold by the hundred weight, it shall be understood to mean the net weight of one hundred pounds, avoirdupois, and all contracts concerning goods sold by weight shall be construed accordingly.

SEC. 13. Every public or town weigher of goods or commodities shall weigh the same according to the provisions of the preceding section, and make his certificate accordingly.

SEC. 14. If any such weigher shall offend against the provisions of the preceding section, he shall forfeit a sum not exceeding five dollars, one half to the use of the town, the other half to the use of the prosecutor.

SEC. 15. No suit shall hereafter be commenced against the selectmen of any town in this State for neglecting to procure the sets of weights and measures which by law they are required to procure, nor against any town for neglecting to erect and maintain a good and sufficient pound, which, by law, towns are required to erect and maintain, until the person proposing to bring such suit shall have given in writing to one or more of the selectmen of such town, notice of his intention to commence such suit at least twenty days prior thereto. And if such weights and measures shall be purchased in compliance with the requirements of law, and if such pound shall be erected and put in repair in conformity to law within twenty days from said notice, then in neither of those cases shall such suit be sustained. (*Laws of 1848, chap. 702.*)

TITLE XIV.

OF INTERNAL POLICE.

- CHAPTER 114. Of the extinguishment of fires.
 CHAPTER 115. Of fire engines.
 CHAPTER 116. Of village fire companies.
 CHAPTER 117. Of hook and ladder companies.
 CHAPTER 118. Of the safe keeping of gunpowder.
 CHAPTER 119. Of offences against the police of towns.
 CHAPTER 120. Of police officers.
 CHAPTER 121. Of watchmen.
 CHAPTER 122. Of idle and disorderly persons.
 CHAPTER 123. Of licensed houses.
 CHAPTER 124. Of Sunday and religious meetings.
 CHAPTER 125. Of the removal of nuisances.
 CHAPTER 126. Of the small pox and pestilential diseases.
 CHAPTER 127. Of quarantine.
 CHAPTER 128. Of pilots and pilotage, and the harbor of Piscataqua.
 CHAPTER 129. Of sea weed.
 CHAPTER 130. Of hawkers and pedlers.
 CHAPTER 131. Of shows and exhibitions.
 CHAPTER 132. Of the record of births and deaths.
 CHAPTER 133. Of noxious animals and game.
 CHAPTER 134. Relating to sheep.
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CHAPTER 114.

OF THE EXTINGUISHMENT OF FIRES.

COMPILED FROM

Chapter 111 of the Revised Statutes.

" 243, Laws of 1845.
 " 341, " " 1846.
 " 727, " " 1848.
 " 866, " " 1849.

SECTION

1. Firewards, chairman and clerk, powers.
2. Firewards, duty in case of fire, badges.

SECTION

3. Firewards, power over engines and persons.
4. Firewards, badge of office.

SECTION

5. Firewards, to remove fires in streets.
6. Penalty for disobeying orders of, or assuming office of firewards.
7. Concealing property at fire, larceny.
8. Firewards to make regulations respecting fires.
9. Penalty for breach of them.
10. Fire engine and hosemen, their number and appointment.
11. Term of office and exemptions.
12. Houses to have buckets and ladders.
13. Firewards to provide in case of neglect.
14. Tenant's remedy for expenses.
15. Buildings may be removed to stop fire.

SECTION

16. Damages, how paid by selectmen.
17. Remedy for neglect to pay damages.
18. Dangerous buildings, notice to repair.
19. Notice, if owner resides out of town.
20. Notice of owners in Portsmouth.
21. Repairs made by firewards, when.
22. Repairs made immediately, when.
23. Ruinous buildings, demolished.
24. Money to be advanced to firewards and accounted for.
25. Penalties, how recovered.
26. Compensation to enginemen.
27. Duty of commanding officers.
28. Towns may adopt these provisions.

SECTION 1. The firewards of each town shall choose a chairman and clerk, whose signature to any notice or other writing required to be given by the firewards shall be valid and sufficient.

SEC. 2. The firewards shall forthwith repair to the place where any fire may break out, with their badge of office which shall be a pole five feet long painted red; and exert themselves and require assistance from all persons present to extinguish and prevent the spreading of such fire, and to remove all property endangered thereby, and appoint guards to take care thereof; and suppress all tumults and disorders with force if necessary.

SEC. 3. They shall have at all times the control of all fire engines, fire hooks, hose and other implements designed or used for the extinguishment of fire in such town; and the control of all persons appointed to serve in any engine, axe or hose company, or other association whose duty shall be to aid in extinguishing or preventing the spreading of fire, in all things appertaining to their appointment; and power to direct and control the labor of all persons present at any fire.

SEC. 4. Any engineer or fireward of any town in this State, may use as the badge of his office, either a pole five feet long painted red, or a band with the word "*engineer*" upon it round his hat, as the board of engineers or firewards of such town may direct. (*Laws of 1845, chap. 243.*)

SEC. 5. Any fireward may and shall cause any fire deemed by him to be dangerous, in any street or on any wharf, to be extinguished or removed.

SEC. 6. If any person present at any fire shall refuse or neglect to obey the commands of the firewards or any of them, or shall unlawfully assume the office or badge of office of fireward, he shall be liable to a penalty of not less than five nor more than fifty dollars.

SEC. 7. If any person at any fire shall plunder, embezzle, con-

vey away or conceal any goods or property, and shall not forthwith deliver the same or give information thereof to the owner if known, otherwise to one of the firewards or selectmen, he shall be deemed guilty of larceny.

SEC. 8. The firewards of any town may establish such regulations respecting the kindling, guarding and safe keeping of fires, for the prevention and extinguishment of fires, and for the removing of shavings and other combustibles from any building or place as they shall think expedient. Such regulations shall be signed by the major part of the firewards, recorded by the town clerk, and copies of such record attested by the town clerk, posted up in two or more public places in the town, thirty days before they shall take effect.

SEC. 9. Penalties not exceeding twenty dollars for each offence, may be prescribed by the firewards for the breach of such regulations, and such regulations shall remain in force until altered or amended by law or by the firewards of the town.

SEC. 10. The firewards shall appoint enginemen and hosemen not exceeding eighteen to each engine or hose company. If a greater number is necessary to any engine in the judgment of the selectmen, the firewards with the selectmen may appoint not exceeding twenty-two additional men. They shall be appointed by warrant signed by the chairman and clerk of the firewards, and by the selectmen when they join in the appointment, and recorded by such clerk.

SEC. 11. Such appointments shall continue in force until they shall resign, remove from town or be discharged by the firewards and such discharge recorded by their clerk, and they shall be exempted from serving on juries and from military duty, as provided in the law relating to the militia.

SEC. 12. Every house or building with fireplaces or stoves shall have thereon a good secure ladder or ladders reaching from the ground to the ridge pole, and shall be provided with one leathern bucket of such size and form as the firewards may prescribe, for every two fireplaces or stoves in such house; and if the owner shall not provide and keep in repair such buckets and ladders, he shall be liable to a penalty of six dollars for every three months' neglect.

SEC. 13. In case of such neglect the firewards may give notice to the owner or to the occupant, if the owner is unknown or does not reside in town, to provide such buckets and ladders, and if the same shall not be provided within thirty days after, they shall provide the same at the expense of the town, and the town may recover the same of the owner or of the occupant, if the owner is unknown or does not reside in town, by an action of debt, to be brought by the firewards in the name of the town.

SEC. 14. Any tenant who shall be obliged by virtue of this act to pay any money which the lessor ought to have paid, may retain

the same out of his rent or recover the same of the lessor by action.

SEC. 15. The major part of the firewards present at any fire, may cause any building or thing whatever to be pulled down, blown up or removed that they shall judge necessary to stop the progress of such fire, and any fireward may require assistance from any person present at such fire for that purpose.

SEC. 16. The selectmen on application shall appraise the damage done to any building or thing, by order of the firewards as aforesaid, assess a tax for the payment thereof and make compensation therefor to the owner, unless it shall appear that the fire began in such building or that the same must have been burned if it had not been destroyed or removed.

SEC. 17. Upon the refusal of the selectmen or their neglect for three months after such application, to appraise such damage and assess such tax, the party injured may petition the court of common pleas for redress, and such court after due notice to the town shall ascertain such damages, and render judgment and issue execution therefor and for costs against the town.

SEC. 18. The firewards shall give written notice to the owner of any building by them deemed to be dangerous by reason of decay, want of repairs, or otherwise, to repair or alter the same, which notice shall contain a particular account of repairs or alterations required to be made.

SEC. 19. If the owner do not reside in the town, such notice may be given to the occupant, if any, and if there is no occupant, such notice may be posted up in at least three public places in such town.

SEC. 20. The notice required to be given by sections 17 and 18 of chapter 111 of the revised statutes (eighteen and nineteen of this chapter,) may be given by causing the same to be published in two or more of the principal newspapers published in the town of Portsmouth; and a notice, such as is prescribed by said sections, if published three weeks successively in said newspapers, shall in all cases be taken and deemed as good and sufficient a notice to the owners of the buildings in said sections named, as the notice therein prescribed, *provided* said property is situated in said Portsmouth; and all parts of said sections inconsistent with the provisions of this act are hereby repealed. (*Laws of 1846, chap. 341.*)

SEC. 21. If such repairs or alterations are not made within thirty days after such notice given or posted up, the firewards may cause the same to be made at the expense of the town, and the town may recover the expense thereof of such owner or occupant in an action of debt, to be brought by the firewards in the name of the town.

SEC. 22. The firewards, when in their opinion the public safety may be greatly endangered unless such repairs or alterations are immediately made, may limit a shorter period than thirty days, and notice thereof being given as aforesaid, may upon neglect of

the owner make such repairs or alterations at the expiration of the time so limited.

SEC. 23. If such building shall in the opinion of the firewards be so ruinous as to be not worth repairing, and such repairs are not made within sixty days after such notice, they may demolish the same at the expense of the town, and file with their clerk a particular account of such expense, and if the same is not paid within five days from such filing, they may sell at public auction the materials of such building, and after deducting the said expense and the cost of the sale, shall pay the proceeds into the town treasury, to be paid over to the owner of the building upon request.

SEC. 24. The selectmen shall advance to the firewards such sums as may be necessary to carry this act [chapter] into effect, and the firewards shall in March, before the annual town meeting, render to the selectmen an exact account of their receipts and expenditures, to be laid before the town, in which all penalties recovered by virtue of this chapter shall be accounted for.

SEC. 25. All penalties incurred by any breach of the provisions of this chapter or of any regulation prescribed by the firewards, may be recovered by action of debt, to be brought by the firewards in the name of the town. Such penalties shall be applied to the purchase of engines or instruments proper to be used in case of fire, or paid into the treasury of the town.

SEC. 26. Every engineman who shall personally perform all the duties required by law, shall receive in the month of November annually, the sum of one dollar and fifty cents for his services, to be paid by the selectmen of the town in which he resides, upon satisfactory evidence being given to them that he has so performed his duty: *provided* that no compensation shall be granted to any member of any engine company unless such company shall at all times keep their engine in such condition as shall be satisfactory to the selectmen or firewards of their respective towns. (*Laws of 1848, chap. 727, sec. 1.*)

SEC. 27. Every commanding officer of an engine company shall, in the month of October annually, make a list of the persons who have faithfully performed all the duties of his company, and certify under oath, that said list contains the names of such persons, and no others, and return the same to the selectmen of the town in which such company is located, and payment shall be made to those only whose names are upon said list. (*Laws of 1848, chap. 727, sec. 2; amended by laws of 1849, chap. 866.*)

SEC. 28. This chapter shall be in force only in such town as shall at a legal meeting adopt the same; but any town may adopt a part thereof only, and may exempt from the operation of the eleventh section [twelfth of this chapter] such persons as live remote from the compact part thereof.

CHAPTER 115.

OF FIRE ENGINEERS.

IDENTICAL WITH

Chapter 143, Laws of 1844.

SECTION

1. Selectmen to appoint chief engineer and assistants for fire department.
2. Chief engineers to keep in order all apparatus, &c.
3. Chief engineer, duty of.
4. Assistant engineer, duty of.

SECTION

5. Chief engineer to report to the town.
6. Repairs to be paid by selectmen.
7. Chief engineer, compensation of.
8. Board of engineers substitute for board of firewards.
9. Act in force only in towns adopting it.

SECTION 1. It shall be the duty of the selectmen in each town, in the month of March annually, to appoint a chief engineer, and as many assistant engineers as they shall think proper, not exceeding twenty, who together with the chief engineer shall compose the board of engineers for the fire department of such town.

SEC. 2. It shall be the duty of the chief engineer to keep or cause to be kept in order all apparatus provided by such town for the extinguishment of fire, and to cause all cisterns and fountains of water prepared for the fire department, to be fully supplied and kept in perfect order.

SEC. 3. It shall be the duty of the chief engineer to regulate the action and determine the location of all fire engines at any fire, and to direct the mode of operating the same, or of any other apparatus connected with the fire department.

SEC. 4. It shall be the duty of the assistant engineers to aid the chief engineer in all things which he may direct relating to the subduing of fires. In case of the absence of the chief engineer, the senior assistant engineer present shall perform the duties of the chief engineer, and possess all his power and authority.

SEC. 5. It shall be the duty of the chief engineer to report annually to the town the state of all apparatus under his care belonging to the town, and the amount expended thereon for repairs.

SEC. 6. All necessary repairs for any part of the apparatus provided for the extinguishment of fires, shall be paid by the selectmen, the bills being first approved by the chief engineer.

SEC. 7. The chief engineer shall be paid for his services such compensation as the selectmen shall think reasonable and proper.

SEC. 8. The board of engineers authorized by this act shall be a substitute for the board of firewards now constituted by law, and shall possess all the powers in addition to this act which are

conferred by chapter one hundred and eleven of the revised statutes. (114 of this compilation.)

SEC. 9. This act shall be in force only in such towns as may adopt the same at any legal meeting.

CHAPTER 116.

OF VILLAGE FIRE COMPANIES.

COMPILED FROM

Chapter 852, Laws of 1849.

" 1312, " " 1852.

SECTION

1. Selectmen upon petition to fix precincts.
2. Selectmen to notify meetings in precincts.
3. Manner of adopting this chapter.
4. Firewards of precincts, how chosen.

SECTION

5. Firewards of precincts, powers and duties of.
6. Voters in precincts may choose engineer, &c.
7. Precincts may raise money.
8. Annual meetings of precincts.

SECTION 1. Upon petition of ten or more legal voters, inhabitants of any village situated in any town, or in two or more towns in this State, for that purpose, the selectmen of such town or towns shall fix by suitable boundaries a village precinct, for the purposes hereinafter mentioned, including therein the said village and such parts of said town or towns adjacent thereto as may seem to them convenient, and make a record thereof.

SEC. 2. And the said selectmen shall notify a meeting of the legal voters residing in said village precinct, in the same manner in which town meetings are required by law to be called, and the notice for such meetings shall be posted at two public places in such village, and said selectmen shall from time to time call like meetings, upon the petition of ten or more legal voters of said village, in the same manner.

SEC. 3. The said legal voters at such meetings may, by a major vote, adopt the provisions of this act, which shall thereupon take effect and be in force in said village precinct.

SEC. 4. And said legal voters may, by a major vote, adopt chapter 143 of the pamphlet laws, [chap. 115 of this compilation,] which shall thereupon apply to and be in force in said village precinct. The firewards in such village precinct shall be chosen by the legal voters thereof; and in case of their omission to make such choice, said firewards shall be appointed by said selectmen. (*Amended by laws of 1852, chap. 1312.*)

SEC. 5. The said firewards and the enginemen and hosemen

by them appointed shall in the said precinct have the same powers, duties and immunities as the like officers chosen or appointed in towns have, by virtue of said chapter, [115 of this compilation.] And the said voters, or in case of their admission so to do, said firewards shall appoint a clerk, whose duty it shall be to keep a record of the doings of said precinct and of said firewards, and to make and certify copies thereof.

SEC. 6. The said voters may choose an engineer and any other officers they may deem necessary for the care and management of their engines and apparatus, and for the prevention and extinguishing of fires, and for the management of the affairs of said precinct, and may prescribe their several powers and duties.

SEC. 7. The said precinct may, for the purpose of preventing and extinguishing fires, provide and keep in repair one or more fire engines, hose, hooks, ladders, engine houses, and all apparatus usual or necessary for the said purpose, and may vote to raise money for said purposes, and for other necessary charges and expenses of said precinct, which shall be assessed upon the taxable inhabitants and property of said precinct, in the same manner which is provided by law in case of building school houses in school districts.

SEC. 8. Annual meetings of said legal voters shall be held at such times and places within such villages as said voters may determine, of which notice shall be given by said clerk in the same manner as is provided by law for the annual meetings of school districts.

CHAPTER 117.

OF HOOK AND LADDER COMPANIES.

IDENTICAL WITH

Chapter 863, Laws of 1849.

SECTION

1. Board of engineers or firewards may appoint and organize hook and ladder companies.
2. Such companies to be under the control of the board of engineers.

SECTION

3. Chapter in force only in such towns as may adopt the same at a legal meeting.

SECTION 1. The board of engineers or firewards of the fire department of any town or city in this State, be, and hereby are, authorized, in the month of April in each year, to appoint and organize a company or companies of fire, hook and ladder men, consisting of not less than fifteen, or more than twenty, in each

company, subject to the approval of the selectmen or mayor of such town or city as may avail itself of the benefit of this chapter.

SEC. 2. Such companies, when organized, shall be under the direction and control of the said board of engineers of such town or city, in the same manner as companies of engine and hosemen in such town or city now are; shall be exempt from military duty; shall receive the same pay for their services as the engine and hosemen of such city now or may hereafter receive; and shall be returned to the commanding officers of military companies in the same manner as the men in the engine and hose companies now are.

SEC. 3. This chapter shall be in force only in such towns or cities as may adopt the same at any legal meeting.

CHAPTER 118.

OF THE SAFE KEEPING OF GUNPOWDER.

IDENTICAL WITH

Chapter 112 of the Revised Statutes.

SECTION

1. Search may be made for gunpowder.
2. Penalty for keeping or storing illegally.
3. Gunpowder, how kept for retail.
4. How transported in villages.
5. Carriage with gunpowder, not to stand in streets.

SECTION

6. Gunpowder forfeited in such case.
7. Gunpowder not to be carried from town to town for retail.
8. Keeper of magazine, his duties.
9. Masters of vessels to deposit gunpowder in magazine.
10. Penalties, how recovered and applied.

SECTION 1. Any two police officers, firewards or selectmen may search any building in the compact part of any town, and any vessel lying in any port in this State, in which they have cause to suspect that gunpowder in a greater quantity than twenty-five pounds may be kept or stored; and in case a greater quantity shall be found, the said police officers, firewards or selectmen shall seize the same as forfeited.

SEC. 2. Any person who shall keep or knowingly suffer any quantity of gunpowder greater than twenty-five pounds, to be kept or stored in any such building or vessel, or aid or assist in keeping or storing the same or shall know that the same is so stored or kept, and shall not forthwith inform one of the police officers, firewards or selectmen thereof, shall forfeit a sum not more than five dollars nor less than one dollar for every day the same shall be so stored or kept.

SEC. 3. Gunpowder kept for retail in quantities less than twenty-five pounds, shall at all times be kept in a cannister of tin

or other metal securely covered from fire, or if the same is kept in a cask, or wooden or combustible vessel, the said cask or vessel shall be enveloped in a close leathern bag; and if any person shall keep any gunpowder for retail in any other manner than as aforesaid, he shall forfeit a sum not more than five dollars nor less than one dollar for every day the same shall be so kept.

SEC. 4. No gunpowder shall be transported through the compact part of any town or village in greater quantities than one hundred pounds, nor unless the casks containing the same be enveloped in close leathern bags, unless it shall be conveyed in a closely covered carriage; and if any person shall transport any greater quantity of gunpowder, or in any other manner than is hereinbefore expressed, he shall forfeit a sum not exceeding fifty dollars nor less than fifteen dollars.

SEC. 5. No carriage upon which there shall be a greater quantity than twenty-five pounds of gunpowder, shall be permitted to stand in any building or near any dwelling house, store or other building in the compact part of any town; and any person who shall stop, place or leave any such carriage as aforesaid, shall forfeit a sum not exceeding fifty dollars nor less than fifteen dollars.

SEC. 6. In case any gunpowder shall be found upon any carriage contrary to the provisions of this chapter, any police officer, fireward or selectman may seize the same as forfeited.

SEC. 7. If any person shall carry from town to town, or from place to place, any gunpowder for the purpose of peddling or selling it by retail in quantities less than twenty-five pounds, or shall sell or offer to sell by retail any gunpowder in any highway or street, or on any wharf, parade or common, or if any person shall sell or deal out any gunpowder in the night time between sunset and sunrise, he shall forfeit for each offence a sum not more than five dollars nor than less than one dollar.

SEC. 8. When any magazine for gunpowder shall be provided by any town for public use, a keeper of such magazine shall be annually chosen, who shall receive into and deliver out of said magazine all gunpowder brought or deposited there, and account for the same, and he shall receive for his services at the rate of twenty cents for a hundred pounds for all quantities above ten pounds, and for less quantities one cent a pound.

SEC. 9. The master of any merchant ship or vessel bringing gunpowder into Portsmouth, in quantity greater than twenty-five pounds, shall deposit in the public magazine all gunpowder so brought by him within forty-eight hours, and if he shall neglect so to deposit the same, he shall forfeit the sum of one hundred and fifty dollars.

SEC. 10. All penalties and forfeitures incurred by any violation of this chapter, shall be sued for and recovered by action of debt, to be brought by the police officers, firewards or selectmen in the name of the town, and shall be expended in the purchase of such articles as are proper to be used in the extinguishment of fires.

CHAPTER 119.

OF OFFENCES AGAINST THE POLICE OF TOWNS.

COMPILED FROM

Chapter 113 of the Revised Statutes.

" 34, Laws of 1843.

" 144, " " 1844.

SECTION

1. Offences and disorders in streets.
2. Obscene words, songs or figures.
3. Defacing buildings, injuring trees, &c.
4. Gaming or juggling unlawful.
5. Firing guns or making noises.
6. Bathing in exposed places.
7. Leaving carriages, &c., in streets.
8. Selectmen may grant license for occupying a portion of the street.
9. License to be recorded by town clerk.
10. Injuring sidewalks or pavements.
11. Drunkards and prostitutes punished.
12. Furnishing spirits to paupers or idlers.

SECTION

13. Purchasing property of paupers.
14. Resisting police officers, penalty.
15. Riding in streets at a gallop.
16. Carelessly driving carts, penalty.
17. Persons convicted, how punished.
18. Trials to be upon complaint.
19. Warrant or summons to be issued.
20. Proceedings on neglect to appear.
21. Appeal, when allowed.
22. Parents, &c., liable for minors.
23. Fines, to whom paid.
24. Police officers may arrest on view and commit offenders.

SECTION 1. No person shall make any brawls or tumults, or in any street, lane or alley, or other public place, be guilty of any rude, indecent or disorderly conduct, or shall insult or wantonly impede any person passing therein; or shall throw any stones, bricks, snow balls or dirt, or play at ball or any game at which ball is used.

SEC. 2. No person shall sing or repeat, or cause to be sung or repeated any lewd, obscene or profane song, or shall repeat any lewd, obscene or profane words; or write or mark in any manner any obscene or profane word, or obscene or lascivious figure or representation, on any building, fence, wall, post or other thing whatever.

SEC. 3. No person shall wantonly injure or deface any building, fence, wall, post, sign board or sign; or shall wantonly cut or injure any tree standing in any street, highway or public place; or shall rob any garden or field of fruit or vegetables; or shall wantonly injure any trees, shrubs or bushes growing in any garden, field or yard; or shall without lawful permission climb on or over any fence of any garden or yard.

SEC. 4. No person shall use any juggling, or unlawful games or plays, or play at any game whatever for money or other property.

SEC. 5. No person shall within the compact part of any town fire or discharge any cannon, gun, pistol or other fire arms, or beat

any drum, (except by the command of a military officer having authority therefor,) or fire or discharge any rockets, squibs, crackers, or any preparation of gunpowder, (except by permission of a majority of the police officers or selectmen in writing,) or shall make any bonfire, or improperly use or expose any friction matches, or knowingly raise or repeat any false cry of fire.

SEC. 6. No person shall within the view of any dwelling house or of any public road, street or wharf, in the day time, bathe or swim without necessity, or expose his person indecently in dressing or undressing for the purpose of swimming or bathing, or otherwise, without necessity.

SEC. 7. No person shall without necessity place or leave, or cause to be placed or left in any street, lane, alley or public place, for two hours by day or one hour by night, any sled, wheelbarrow, cart, dray, chaise or other carriage, or any box, crate, cask, tub or other vessel; or place or throw, or cause to be placed or thrown into any such street, lane, alley or public place any wood, lumber, manure, dirt or other matter that may impede the free passage of the same, and suffer the same to remain there two hours.

SEC. 8. The selectmen of any town may grant a license in writing to any person to occupy a portion of any street designated by distinct limits for the purpose of laying thereon lumber and other materials for building and other purposes, for a time not exceeding four months, whenever they shall deem the same necessary or proper, subject to such terms and conditions, to be expressed in such license, as the public convenience and safety may require. (*Laws of 1844, chap. 144, sec. 1.*)

SEC. 9. Any person so licensed, who shall first cause the said license to be recorded at length by the town clerk, and who shall comply with the terms expressed in said license, shall be exempt from the penalties imposed by section seven of chapter one hundred and thirteen of the revised statutes (seven of this chapter) for any act authorized by such license. (*Laws of 1844, chap. 144, sec. 2.*)

SEC. 10. No person shall without necessity drive any wheel carriage, sled or wheelbarrow on or over the side pavements or walks of any street, lane or alley, or ride or lead any horse thereon.

SEC. 11. If any person shall be found drunk in any street, alley or other public place, or shall be a common street walker, or prostitute, such person shall be punished therefor.

SEC. 12. No person shall sell, give or otherwise furnish to any pauper or person committed to any house of correction, any spirituous liquor whatever, except by permission of the keeper thereof; or to any spendthrift or idle person under guardianship, except by permission of his guardian.

SEC. 13. No person shall purchase or receive in exchange or otherwise, from any pauper supported in any almshouse or poor house, without permission of the overseers of the poor, any property whatever, and any person so offending, shall be punished

under the provisions of this chapter, and shall pay treble the value of such property to said overseers.

SEC. 14. If any person shall rescue or attempt to rescue any prisoner in the custody of any police officer, or shall wilfully and knowingly resist any police officer in the execution of his office, he shall be deemed guilty of a violation of this chapter.

SEC. 15. If any person shall ride through any street or lane in the compact part of any town on a gallop, or at any swifter pace than at the rate of five miles an hour, he shall be deemed guilty of a violation of this chapter.

SEC. 16. If any person having charge of any cart, dray, sled or other carriage drawn by horses or oxen, shall suffer the same to pass through any street in the compact part of any town without keeping with and carefully attending the same, and keeping such horses or oxen under his command, he shall be deemed guilty of a violation of this chapter.

SEC. 17. Any person convicted of any offence in this chapter mentioned, shall be punished by fine not exceeding ten dollars nor less than one dollar, and shall pay costs of prosecution and stand committed until the same be paid, or by imprisonment for a term not less than five days nor more than thirty days in the common jail, or in the bridewell of such town, or by confinement to hard labor the like term in the house of correction, at the discretion of the justice of the court before whom such conviction shall be had.

SEC. 18. No trial shall be had for any offence in this chapter mentioned, but upon complaint on oath. If the name of the offender is not known, it shall be sufficient to insert in such complaint and in the other proceedings any description by which he may be known.

SEC. 19. If the person charged with any offence shall not be in custody, the justice to whom the complaint shall be made, shall issue a warrant in due form of law for his arrest, or a summons requiring him to appear at a certain time and place, which shall be served by delivering to him an attested copy of such summons.

SEC. 20. If any person so summoned shall not appear as required by such summons, the justice may hear the evidence, and acquit or convict such person in the same manner as if he were present.

SEC. 21. Any person convicted of any offence mentioned in this chapter, may appeal to the court of common pleas for the county within two hours after, upon giving bond with sufficient sureties to the town to prosecute said appeal with effect and to pay costs, if he shall not be discharged at said court.

SEC. 22. If any person so convicted shall be a minor under the age of fourteen years, his parent, guardian or master shall be liable to pay the fine and costs imposed, provided he shall have received due notice of the time and place of trial of such minor for said

offence; and an action of debt may be maintained by the police officers in the name of the town therefor.

SEC. 23. All fines and costs adjudged under this chapter, shall be paid to the justice who imposed the same, and such fines shall be paid by him to the town and the costs to the several persons entitled thereto.

SEC. 24. The powers and duties of police officers as prescribed in sections four, five and six of chapter one hundred and fourteen of the revised statutes (six, seven and eight of chapter 120 of this compilation) shall extend to and apply to all violations of the provisions of chapter one hundred and thirteen of the revised statutes, (this chapter.) (*Laws of 1843, chap. 34, sec. 7.*)

CHAPTER 120.

OF POLICE OFFICERS.

COMPILED FROM

Chapter 114 of the Revised Statutes.

" 1226, Laws of 1852.

SECTION

1. Special police may be appointed.
2. Superintendent of special police.
3. Police officers, how appointed.
4. " " when appointed.
5. Term of office, authority and compensation.
6. Police officers may arrest on view.

SECTION

7. Police officers may commit, when.
8. Keepers of prison to detain.
9. Police officers to make regulations.
10. Regulations, how approved.
11. Selectmen may remit fines.
12. Provisions may be adopted by towns.

SECTION 1. Whenever in the opinion of the selectmen of any town circumstances render it necessary, they may appoint a board of special police officers, one of whom shall be the superintendent thereof. Such special police officers shall have all the powers of police officers and constables in whatever relates to criminal proceedings, and shall continue in office during the pleasure of the selectmen. (*Laws of 1852, chap. 1226, sec. 1.*)

SEC. 2. The superintendent, under the direction of the selectmen, shall employ such special police officers in such mode as may be deemed expedient for the detection and conviction of criminals and the prevention of crime within their town; and they shall receive a reasonable compensation for their services from the town, deducting therefrom whatever may be a proper charge against the county, and which may be paid thereby. (*Laws of 1852, chap. 1226, sec. 2.*)

SEC. 3. Police officers, not exceeding seven in number, shall

be appointed by the selectmen of each town in which this chapter may be in force, by writing under their hands, and shall be qualified by taking the oath of office, and causing the said appointment and the certificate of such oath written thereon to be recorded by the town clerk; and may be removed at the pleasure of the selectmen.

SEC. 4. It shall be the duty of said selectmen to make the said appointments in the month of March; but if any vacancy shall occur from any cause, or if such appointment shall not have been made in March, the selectmen may appoint at any time afterwards.

SEC. 5. Police officers shall hold their office until the last day of the next March, and shall be by virtue of said appointment constables and conservators of the peace, and shall receive such compensation as shall be voted by the town, and the same fees as constables.

SEC. 6. Any police officer upon view of any offence committed against the provisions of this chapter, may arrest the offender and forthwith carry him before a justice of the peace to answer a complaint therefor, and the oath of such police officer shall be sufficient evidence of such offence, unless invalidated by other evidence.

SEC. 7. If any police officer shall arrest any such offender between sunset and sunrise, or shall arrest any person for being found drunk contrary to the provisions of this chapter, he may commit such person to the common jail, or the bridewell or house of correction, or otherwise retain him in safe custody not exceeding twenty-four hours, within which time he shall be discharged or taken before a justice of the peace to answer for the offence.

SEC. 8. The keeper of such jail, bridewell or house of correction shall, upon the verbal request of any police officer, receive and detain in custody every person so arrested and presented by him, not exceeding twenty-four hours, unless sooner called for by the same or some other police officer.

SEC. 9. The police officers of any town may make such regulations as they may deem expedient for the stands of hacks, drays and carts in any street, lane or alley; and for the height and position of any awning, shade or fixture in front of or near any building; and respecting any obstruction in any street, lane or alley, the smoking of any pipe or cigar therein, or in any stable or other outbuilding; and every violation of such regulations may be proceeded against and punished in the same manner as other offences mentioned in the preceding chapter.

SEC. 10. No regulation made by such police officers shall take effect until the same shall be approved by the selectmen of the town, and recorded with such approbation by the town clerk, and published a reasonable time in one or more newspapers printed in the town, or in case there be no newspaper printed in such town,

by posting up a certified copy thereof at two or more public places therein.

SEC. 11. The selectmen may remit fines imposed for violations of this chapter, and costs, and discharge the offenders from imprisonment, and the town shall be liable for the prison charges in case of the offender's inability.

SEC. 12. This chapter shall be in force in all towns which have at any legal meeting adopted its provisions, and in all towns in which any of the provisions of an act entitled "An act to establish a system of police in the town of Portsmouth, and for other purposes, passed June twenty-third, eighteen hundred and twenty-three," are in force.

CHAPTER 121.

OF WATCHMEN.

IDENTICAL WITH

Chapter 115 of the Revised Statutes.

SECTION

1. Watchmen appointed by selectmen.
2. How appointed, and their powers.

SECTION

3. May arrest, when, and for what.
4. Proceedings against persons arrested.

SECTION 1. The selectmen of any town being authorized by vote of the town, may appoint watchmen for performing a walking night watch, and fix their stations and limits, prescribe their duties, and contract for and pay them a reasonable compensation for their services.

SEC. 2. They shall be appointed and qualified in the same manner, and shall have while on duty the same powers, as police officers.

SEC. 3. Every watchman may arrest any person whom he shall find committing any kind of disorder or disturbance, or any crime or any offence against the police of towns, or such as are strolling about the streets at unreasonable hours, who refuse to give an account or may reasonably be suspected of giving a false account of their business or design, or who can give no account of the occasion of their being abroad.

SEC. 4. Every person so arrested may be committed, detained and proceeded against in the manner provided by the chapter relating to the police of towns, in the case of offences prohibited thereby.

CHAPTER 122.

OF THE PUNISHMENT OF IDLE AND DISORDERLY PERSONS.

IDENTICAL WITH

Chapter 116 of the Revised Statutes.

SECTION

1. Houses of correction, how erected.
2. Offences described.
3. Offenders, how punished.

SECTION

4. Appeal, when allowed.
5. Offenders may be arrested.

SECTION 1. The court of common pleas for any county, or the inhabitants of any town at any legal meeting, may provide such lands, buildings and articles of any kind as may be necessary for a house of correction for such town or county, and may appoint suitable officers for the management thereof, and make all necessary by-laws and regulations for the government of the inmates, and cause the same to be enforced; but in no case shall the punishment inflicted exceed hard labor and such reasonable correction as a parent may inflict upon a refractory child, or solitary imprisonment not exceeding forty-eight hours at one time.

SEC. 2. All rogues, vagabonds, lewd, idle or disorderly persons; any person going about begging; any person using any subtle craft, juggling, or unlawful game or play; any person pretending to have knowledge in physiognomy or palmistry; any person pretending for money to tell destinies or fortunes, or discover by any spell or secret act where lost or stolen goods may be found; any common piper, fiddler, runaway, stubborn servant or child, common drunkard, night walker, pilferer, or person wanton and lascivious in speech or behavior; any common railer or brawler; and any person who neglects his employment, mispends his earnings and does not provide properly for the support of himself and family; may be sent to the house of correction in the town or county in which such offence is committed, and for want of such house of correction, the common jail of the county may be used for that purpose.

SEC. 3. In any such case, complaint in writing, under oath, shall be made to some justice of the peace, who may thereupon issue a warrant under his hand and seal, and cause the offender to be brought before him, and if upon examination the complaint shall be sustained, said justice may sentence the offender to confinement and hard labor in the house of correction in such town or county for a term not exceeding six months.

SEC. 4. Any person convicted and sentenced as aforesaid, may appeal to the next court of common pleas for the county by recognizing with sufficient surety or sureties before the justice in such

reasonable sum as he may order, conditioned that the appellant shall enter and prosecute the appeal with effect, and abide the order of the court thereon, and in the mean time keep the peace and be of good behavior towards all the citizens of the State; and a commission of the like offence by the appellant before a decision is had on such appeal, shall be deemed to be a breach of the condition of the recognizance.

Sec. 5. If any person shall be found committing either of said offences in any public street or road in the night time, he may be apprehended by any magistrate, constable or watchman, or by any person by order of such officer, and kept in custody in some convenient place not exceeding twenty-four hours, during which time he shall be carried before some justice of the peace, there to be prosecuted or discharged according to law.

CHAPTER 123,

OF LICENSED HOUSES.

COMPILED FROM

Chapter 117 of the Revised Statutes.

" 244, Laws of 1845.

" 620, " " 1848.

" 846, " " 1849.

SECTION

1. Taverners to be licensed.
2. " how furnished.
3. " not to suffer tippling.
4. " license may be revoked.
5. Selectmen to grant license to retailers.
6. Penalty for selling without license.

SECTION

7. License to be recorded and may be revoked.
8. Fee for recording license.
9. Justices may bind over.
10. Limitation of license.

SECTION 1. The selectmen, on application, may license any suitable person of good moral character to exercise the business of a taverner in such town. Such license shall designate the house where such tavern shall be kept, and being first recorded by the town clerk, shall be in force as to such house and no other for one year only; but such license shall not authorize the sale of wine and spirituous liquors, unless expressly authorized therein.

SEC. 2. Every licensed taverner shall at all times be furnished at the house designated in his license, with suitable provisions and accommodations for travellers, their cattle and horses; and if any person so licensed shall not be so furnished, he shall forfeit the sum of five dollars, to be recovered by any person suing for the same.

SEC. 3. If any licensed taverner shall permit any riotous, disorderly or irregular conduct in or about his house or buildings, or permit any person upon the Lord's day to remain drinking intoxicating liquor therein, or at any other time permit any person to remain therein drinking to excess, or permit any person to play at cards, dice or billiards, or at any bowling alley, or any game in or about his house, yards or buildings, he shall be punished by fine not exceeding twenty dollars.

SEC. 4. If any licensed taverner shall be destitute of any of the provisions or accommodations aforesaid, or shall permit in or about his house any conduct forbidden by this chapter, the selectmen on complaint shall notify the parties interested, hear and examine all evidence in relation to the same, and if they shall see cause shall forthwith revoke such taverner's license; and the said revocation being recorded by the town clerk and notice thereof given to said taverner, such license shall be void.

SEC. 5. The selectmen of the respective towns shall license one or more suitable persons to sell wine and spirituous liquors, for medicinal, mechanical and chemical purposes, and for no other use or purpose. (*Laws of 1849, chap. 846, sec. 1.*)

SEC. 6. If any person not being licensed shall sell any spirituous liquor or wine, mixed or otherwise, in any quantity as aforesaid, he shall on conviction be punished by fine not exceeding fifty dollars nor less than twenty dollars. (*R. S., chap. 117, sec. 6, as amended by laws of 1849, chap. 846, sec. 5.*)

SEC. 7. All licenses granted under this act [fifth section of this chapter] shall be recorded and may be revoked in the same manner as is provided in regard to licensed taverns. [*Sec. 4 of this chapter.*] (*Laws of 1849, chap. 846, sec. 3.*)

SEC. 8. The town clerk shall be entitled to a fee of twenty cents for recording each taverner's or retailer's license. (*R. S., chap. 117, sec. 7.*)

SEC. 9. Whenever, upon proceedings had before a justice of the peace for any violation of the sixth section of the one hundred and seventeenth chapter of the revised statutes, [the sixth section of this chapter,] the magistrate before whom the examination takes place shall be of the opinion that the person complained against is guilty of the offence charged, he shall order such offender to recognize, with sufficient sureties, in a sum not exceeding five hundred dollars, to appear at the next court of common pleas for such county and abide the order of said court, and in the mean time to keep the peace and be of good behavior, and especially not to violate the provisions of said sixth section, and to stand committed until such order is complied with. (*Laws of 1848, chap. 620.*)

SEC. 10. No license which shall be granted by the selectmen to any person to exercise the business of a taverner, or to sell wine and spirituous liquors for medicinal, mechanical and chemical purposes, by virtue of the chapter of which this act is in amend-

ment, [chap. 117 of R. S., this chapter] shall extend or be in force after the first day of April next after the expiration of the term of office of such selectmen. (*Laws of 1845, chap. 244.*)

CHAPTER 124.

OF SUNDAY AND RELIGIOUS MEETINGS.

IDENTICAL WITH

Chapter 118 of the Revised Statutes.

SECTION

1. Labor and recreation on Sunday forbidden.
2. Rudeness in religious meetings forbidden.
3. Penalty for such offences.
4. Selectmen and police officers' duty.
5. Liability of parents, masters, guardians.
6. Disturbers of meetings removed.

SECTION

7. Such offenders, how punished.
8. Offender required to recognize.
9. Sale of liquors near meeting forbidden.
10. Penalty for such offence.
11. Shows, racing, &c., forbidden.
12. Offender, how arrested; proceedings.
13. Limitation of prosecutions.

SECTION 1. No person shall do any work, business or labor of his secular calling to the disturbance of others, works of necessity and mercy excepted, on the first day of the week commonly called the Lord's day; nor shall any person use any play, game or recreation on that day or any part thereof.

SEC. 2. No person shall on the Lord's day, within the walls of any house of public worship or near the same, behave rudely or indecently, either in the time of public service or between the forenoon and afternoon services.

SEC. 3. Any person offending against any provision of the foregoing sections of this chapter, shall forfeit a sum not exceeding six dollars nor less than one dollar, which shall be recovered by any selectman or police officer for the use of the town.

SEC. 4. Any selectman or police officer shall have power to remove any person behaving rudely or indecently in any meeting for public worship from the place of such meeting, and him detain until the close of such meeting, and the same right to command assistance as sheriffs have, and may prosecute for all violations of the preceding sections of this chapter.

SEC. 5. Parents, guardians and masters shall be respectively liable for all forfeitures incurred by children, wards or servants under their care.

SEC. 6. If any person shall disturb any religious meeting by speaking in the same so as to interrupt or prevent the stated and orderly proceedings and exercises of such meeting, or shall make

such disturbance while the people are assembling at or leaving their place of worship, and shall not desist therefrom when requested, he may be removed from such meeting or place of worship by any individual.

SEC. 7. Any person so offending shall be fined not less than one dollar nor more than ten dollars, and may be required to recognize with sureties in a sum not less than fifty dollars nor more than one hundred dollars, to appear at the court of common pleas next to be holden in said county, and to abide the order of said court, and in the mean time to be of good behavior.

SEC. 8. If such recognizance is forfeited, said court may require such offender to recognize with sufficient sureties in a sum not exceeding two hundred dollars, to appear at the next term of said court, and to abide the order thereof, and in the mean time to be of good behavior, and so from term to term as may be ordered by said court, so long as such forfeiture shall be incurred.

SEC. 9. No person shall keep any shop, tent, booth, wagon or carriage for the sale of, or shall sell, give or expose to sale, any spirituous or intoxicating liquors, goods or merchandise of any kind within two miles of any public assembly convened for the purpose of religious worship; but this shall not be construed to prevent any person from selling merchandise at the shop or store where he usually transacts business; nor from selling any liquors in any place where he shall have received a license therefor before the appointment of such religious meeting; nor to prevent any pedler from selling his goods to any person at the usual place of business or residence of such person.

SEC. 10. If any person shall be guilty of a breach of the preceding section, upon conviction thereof before any justice of the peace, he shall be fined not exceeding ten dollars, or committed to the house of correction not exceeding thirty days, or may be sentenced to both said punishments.

SEC. 11. If any person shall be guilty of noisy, rude or indecent behavior, of exhibiting shows or plays, or promoting or engaging in horse racing or gambling at or near any such religious meeting, so as to interrupt or disturb the same, upon conviction thereof before any justice of the peace, he shall be fined not exceeding ten dollars; or if the offence be of an aggravated nature, he may be held to recognize with sufficient sureties to appear at the court of common pleas next to be holden in the same county; and upon conviction before such court, he shall be fined not exceeding fifty dollars, or imprisoned in the county jail not exceeding ninety days.

SEC. 12. Any person upon view of any offence described in this chapter may apprehend such offender and bring him before some justice of the peace, who, upon complaint under oath, shall issue his warrant, cause such offender to be arrested and proceed to a hearing of such complaint.

SEC. 13. No prosecution for any violation of the provisions of

this chapter shall be sustained unless commenced within thirty days after the commission of such offence.

CHAPTER 125.

OF THE REMOVAL OF NUISANCES.

COMPILED FROM

Chapter 119 of the Revised Statutes.

" 245, Laws of 1845.

SECTION

1. Health officers may make regulations.
2. " " to complain of nuisances.
3. Health officers to remove nuisances after notice.
4. Health officers to employ assistants.
5. " " may remove nuisances without notice, when.
6. Owner or occupant to pay expense.

SECTION

7. Penalty for leaving offensive matters.
8. Slaughter houses, &c., regulated.
9. Privies and styres for swine regulated.
10. Bowling alleys to be nuisances, when.
11. Sec. ten of this chapter to be in force when adopted by towns.
12. Nuisances in streets to be removed.
13. Health officers' compensation.

SECTION 1. The health officers may make regulations for the prevention and removal of nuisances, and such other regulations relating to the public health, as in their judgment the health and safety of the people may require, which shall take effect when they shall be approved by the selectmen, recorded with such approbation by the town clerk, and published in some newspaper printed in the town, or copies thereof posted in two or more public places in the town. And any person wilfully violating such regulations, shall incur a penalty of ten dollars, to be recovered by the health officers in the name of the town.

SEC. 2. Health officers and each of them shall inquire into all nuisances and other causes of danger to the public health, and whenever they shall know or have cause to suspect that any nuisance or other thing injurious to the public health is in any building, vessel or enclosure, they shall make complaint under oath to some justice of the peace, who shall issue a warrant directed to them to search such building, vessel or enclosure, and they may by virtue thereof in the day time forcibly enter therein and make such search.

SEC. 3. The health officers may give written notice to the owner or occupier of any building, vessel or enclosure, to remove or destroy any nuisance or other thing deemed by them on examination to be injurious to the public health, within a certain time limited therein; and in case such owner or occupier, the said

notice having been given to him or left at his usual place of abode, shall neglect to comply therewith, the said health officers may forcibly enter such building, vessel or enclosure, and cause the said nuisance or other thing aforesaid to be removed or destroyed.

SEC. 4. They may employ such assistants and laborers as may be necessary, and if resisted shall have the same powers as sheriffs have by law to command assistance; and any person wilfully resisting them or their assistants or laborers in making such search or removing any such nuisance or other thing aforesaid, shall on conviction be punished by imprisonment not exceeding twelve months, or by fine not exceeding five hundred dollars.

SEC. 5. When the owner of any building, vessel or enclosure shall be unknown to the health officers, or shall not reside in town and the same shall be unoccupied, or the occupant is in their opinion unable to remove the same, they may without any previous notice immediately cause any nuisance or other thing by them deemed injurious to the public health, found therein, to be removed or destroyed.

SEC. 6. The owner or occupier of any building, vessel or enclosure shall be liable to pay the expense of the removal or destruction of any such nuisance or other thing as aforesaid, including the fees of the health officers who order or cause the same to be removed; and the same may be recovered by action to be brought by the health officers in the name of the town.

SEC. 7. If any person shall place or leave or cause to be placed or left in or near any highway, street, alley or public place, or wharf, or in any water where the current will not remove the same, any substance liable to become putrid or offensive or injurious to the public health, he shall incur a penalty of not more than ten dollars nor less than one dollar, to be recovered by the health officers in the name of the town.

SEC. 8. If any person shall use or occupy any building in the compact part of any town, for a slaughter house, for trying tallow, or for currying leather, or for the deposit of green pelts or skins, without permission in writing of the health officers, he shall incur a penalty of ten dollars for each month in which the said building shall be so occupied.

SEC. 9. If any person shall erect or continue any house of easement or privy within forty feet of any street, or of the dwelling, shop or well of any other person, unless the same is vaulted six feet deep and sufficiently secured and enclosed, or shall erect or keep any pen or sty for swine so near the dwelling house of another as in the judgment of the selectmen shall be a nuisance, he shall incur a penalty of ten dollars, and a like penalty for each month he shall continue the same after due notice of such judgment.

SEC. 10. Any bowling alley situate within twenty-five rods of any dwelling house, store, shop, school house or place of public

worship, shall be taken and deemed to be a public nuisance. (*Laws of 1845, chap. 245, sec. 1.*)

SEC. 11. This act [tenth section of this chapter] shall not be in force except in such towns as shall at some legal meeting adopt the same. (*Laws of 1845, chap. 245, sec. 2.*)

SEC. 12. The health officers shall cause to be removed all nuisances or other things deemed by them injurious to the public health, found in any highway, street, alley, public place or wharf, or in any water where the current will not remove the same.

SEC. 13. The health officers shall be paid a reasonable compensation from the town, and all expenses incurred by them in the execution of their duty shall be paid by the town, and the selectmen are required to advance to them such sums as may be necessary, of which and of all their receipts and disbursements, the health officers shall annually, before the annual town meeting, render an account to the selectmen, to be laid before the town.

CHAPTER 126.

OF THE SMALL POX AND PESTILENTIAL DISEASES.

IDENTICAL* WITH

Chapter 120 of the Revised Statutes.

SECTION

1. Agent for vaccination appointed.
2. Health officers may remove sick.
3. Inoculation for small pox prohibited.

SECTION

4. Pest houses may be licensed, when.
5. Persons in pest houses not to leave.
6. Selectmen may permit inoculation.

SECTION 1. Any town may appoint an agent for vaccination, who shall at all times be provided with suitable matter for communicating the kine pox, and may vaccinate all persons at the expense of the town, who have not had the small pox or the kine pox, and shall receive a suitable compensation therefor, to be paid by the selectmen. Such agent may be appointed by the selectmen of the town whenever in their opinion the health of the inhabitants of said town, by reason of the spreading of the small pox, shall require.

SEC. 2. The health officers may remove any person infected with the small pox, the malignant cholera or other malignant pestilential disease, to some suitable house, to be by them provided for that purpose, provided the same can be done without endangering the life of such person; and make such regulations respecting such house, and for preventing unnecessary communication with such persons or their attendants, as they may think proper; and if any person shall wilfully violate the same, he shall forfeit

the sum of fifty dollars, to be recovered by such health officers in the name of the town.

SEC. 3. If any person shall, with intent to communicate the small pox, bring into this State or use any infectious matter, or shall inoculate himself or any other person with the small pox, or be inoculated therefor, he shall incur a penalty of one hundred and fifty dollars, to be recovered by any person who will sue for the same, one half to his own use and the other half for the use of the town in which the offence is committed.

SEC. 4. The court of common pleas, on application, may license any physician to establish a house for inoculating persons for the small pox, in any town which shall consent thereto, under such regulations as they may prescribe; and such physician shall give bond to the county treasurer in the sum of three thousand dollars, conditioned that he will use every means and precaution in his power to prevent the spreading of the disease, and that he will not inoculate any person, nor willingly suffer any person to be inoculated or to have said disease in any other place than said house, and will not suffer any person to depart from such house until he is effectually cleansed, and will give to such person a certificate thereof under his hand.

SEC. 5. If any person having had the small pox in any licensed house, or being employed therein, shall leave the same without such certificate, or be found without the same within one month afterwards, he shall incur a penalty of fifty dollars, to be recovered by the health officers in the name of the town.

SEC. 6. If any person shall break out with small pox in the natural way, and the health officers shall judge that he may remain without endangering others than his own family, they may give license to any persons who have been exposed to the danger of taking the disease, to be inoculated and to remain in the same house; and the provisions of this chapter and all regulations of the health officers in relation to other licensed pest houses shall apply to such house and its inmates.

CHAPTER 127.

OF QUARANTINE.

IDENTICAL WITH

Chapter 121 of the Revised Statutes.

SECTION

1. Quarantine regulations, how made.
2. Vessels to perform quarantine.
3. Goods landed illegally may be seized.

SECTION

4. Penalty for refusing to obey regulations.
5. Sick may be landed, when and how.

SECTION

6. Penalty for landing without permission.
7. Persons going on board, detained.
8. Signal of quarantine.
9. Penalty for bringing vessel to wharf.

SECTION

10. Health officers may remove vessel.
11. Persons on board to give notice.
12. Pilots to give notice of regulations.
13. Vessels may be brought to a fort.
14. Penalties, how recovered.

SECTION 1. The health officers may from time to time make regulations respecting quarantine, prescribing in what cases it shall be performed by vessels arriving from any ports or places therein named, and the same modify or change as in their opinion the safety of the people may require or admit, which shall be approved, recorded and published as other regulations made by them.

SEC. 2. The health officers shall require all such vessels having on board any person infected with small pox, plague, pestilential or malignant fever, or other malignant infectious or contagious disease, or who shall have been so infected during the voyage, or having on board any goods reasonably supposed to have any infection of such disease, to perform quarantine at such place as they shall appoint; and shall order the master of such vessel to proceed with and anchor her at such place, there to be purified and cleansed as they may direct. A suitable place on shore may be prescribed and properly limited for the purification of the cargo of such vessel.

SEC. 3. The health officers may seize any goods landed from such vessel without their permission, and remove and keep the same until they shall have caused the same to be thoroughly cleansed. The expenses of such purification of the vessel and her cargo shall be paid by the master, owner or consignee of the vessel, and they shall be severally answerable therefor.

SEC. 4. Any owner, master, supercargo, officer, seaman, consignee or other person who shall refuse to obey the orders and regulations of the health officers in regard to such quarantine, or the purification and cleansing of such vessel and cargo, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or both.

SEC. 5. Any person sick on board such vessel, may be sent on shore by said health officers at some place by them appointed and limited for that purpose, and shall be there maintained, provided for and cleansed at his own expense, or that of his parents or master, if able, otherwise at the expense of the town; and such town may recover the same against the town or county by law chargeable with their support, as in cases of relief afforded by overseers of the poor.

SEC. 6. If any person shall come on shore from any vessel infected or justly suspected to be so, or subject to or ordered for quarantine, or performing it, or shall leave the place appointed for the sick or for purification, being employed or placed there by the health officers, without their permission, he shall be punished by a fine of one hundred dollars, or by imprisonment for three months.

SEC. 7. If any person shall, without permission of the health officers, go on board any vessel ordered for or performing quarantine, or go within the limits appointed by them for the reception of infected persons and property on shore, he shall be considered as infected, and held to undergo purification in the same manner and under the same regulations and penalties as those who are performing quarantine; and shall there remain at his own expense until discharged by the health officers, and may be forcibly detained by the persons there employed by the health officers until so discharged.

SEC. 8. A red flag at least six feet in length shall be hoisted from sunrise to sunset at the head of the mainmast of any vessel ordered for quarantine, until such vessel shall be entirely cleansed, and on a flag staff at the place appointed for the reception of the sick and for the purification of infected goods, so long as they shall remain there.

SEC. 9. If any owner, master, supercargo, officer, seaman or consignee of any vessel, or any other person knowing such vessel to be subject to quarantine, shall bring the same or suffer the same to be brought to or near any wharf, or near any dwelling house or store, or shall make any false declaration as to the port or place from which he came, or shall cause or aid or permit the landing of any person or property of any kind from such vessel without permission of the health officers, he shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or both.

SEC. 10. If any such vessel shall not be removed to the place of quarantine agreeably to the directions of the health officers, or shall be brought near to any wharf, dwelling house or store, without their permission, the health officers shall cause such vessel to be forthwith removed to such place, there to remain at the risk of the owners till the expiration of the time limited by the health officers; and the expense of such removal shall be paid by the master, owner or consignee, who shall be severally liable therefor, to be recovered by the health officers in the name of the town, with double costs.

SEC. 11. The master and officers of every vessel arriving at any port in this State, having on board any person infected with the plague, small pox, or any malignant infectious or pestilential disease, or who has been so infected during the voyage, or having on board any goods which may be reasonably supposed to have any infection of such disease, shall forthwith give notice thereof to the health officers or selectmen; and if any such master or officer shall neglect to give such information, he shall be punished by fine not exceeding five hundred dollars, or by imprisonment, not exceeding three months, or both.

SEC. 12. The health officers shall give notice to the pilots of the port of all regulations by them made respecting quarantine, and such pilots shall make known such regulations to the masters

of all vessels they shall board, or to whom they shall have opportunity to communicate the same. If any pilot shall pilot any vessel subject to quarantine to or near any wharf, he shall forfeit his branch, and may be fined not exceeding one hundred dollars.

SEC. 13. The health officers shall communicate any regulation or orders by them made respecting quarantine to the commander of any fort near such port, and desire his coöperation in stopping all vessels subject to quarantine attempting to pass into the harbor. If any such vessel shall attempt to pass after being hailed and forbidden, a shot may be fired ahead of such vessel, and if she shall persist, then a shot astern thereof, and if she shall still persist, then such vessel shall be fired upon and into until she shall bring to and submit to such regulations and orders; and such commander shall receive five dollars for each shot so made, to be paid by the master before he shall leave the quarantine ground.

SEC. 14. All forfeitures for the violation of any regulation prescribed by the health officers, and all expenses incurred by them in pursuance of this chapter, may be recovered of the several persons liable thereto by action of debt, to be brought by such health officers in the name of the town, with costs.

CHAPTER 128.

OF PILOTS AND PILOTAGE, AND THE HARBOR OF PISCATAQUA.

COMPILED FROM
Chapter 348, Laws of 1846.
" 1285, " " 1852.

SECTION

1. Pilots, how appointed.
2. Vacancies, how filled; fees of pilots.

SECTION

3. Pilots to take charge of what vessels.
4. Masters may pilot their own vessels.

SECTION 1. That the governor and council be and they hereby are empowered to appoint three persons from among the members of the Portsmouth Marine Society, to be commissioners of pilotage of the harbor and river of the Piscataqua, who shall hold their offices for five years; and said commissioners and their successors are hereby authorized and empowered to make and establish all such ordinances, rules and regulations touching pilots and pilotage for the harbor and river of the Piscataqua as they may from time to time determine to be proper, and from time to time may modify, rescind or otherwise alter the same: *provided*, that the same shall be published in some newspaper in said Portsmouth, at least thirty days before the same shall go into operation; also to prescribe the qualifications of pilots, and from time to time to appoint and,

under their hands and seals, commission such persons as they, by major vote, may determine, and the same remove at their discretion; and to take such security by way of bonds or otherwise as they shall deem proper. (*Laws of 1852, chap. 1285, sec. 1.*)

SEC. 2. Whenever a vacancy shall occur in said board of commissioners, it shall be the duty of the said Portsmouth Marine Society to recommend from the members of said society three suitable persons to be commissioners of pilotage, to the governor and council, who are hereby empowered from one of the three so recommended, to appoint one person to fill such vacancy; and in like manner shall all vacancies which may from time to time occur be filled up. And the governor and council shall, from time to time, as there may be occasion, fix the fees for pilotage, and notify the commissioners thereof; and the commissioners shall insert the tariff of fees upon the commission which they shall give the persons appointed pilots; and until the governor and council shall otherwise order, the fees for pilotage shall be the same as now in force. (*Laws of 1852, chap. 1285, sec. 2.*)

SEC. 3. Any pilot may take charge of any vessel drawing seven feet of water or upwards, (except coasting and fishing vessels of the United States, of one hundred and twenty tons,) bound into or out of the harbor of Piscataqua, and shall pilot such vessels into or out of said port, first showing to the master thereof his branch or warrant if requested. (*Laws of 1846, chap. 348, sec. 1.*)

SEC. 4. Any master or owner may pilot his own vessel; but if any pilot or his deputy shall speak and offer service to any vessel bound into said harbor, at sea beyond the light house, he shall be entitled to one half the fees specified in his warrant, in case the master or owner declines to employ him; and on refusal of payment, may sue for and recover the same. (*Laws of 1846, chap. 348, sec. 2.*)

CHAPTER 129.

OF SEA WEED.

COMPILED FROM

Chapter 123 of the Revised Statutes.

" 1001, Laws of 1850.

SECTION

1. Sea weed not to be carried from salt marshes.
2. Sea weed not to be collected by night.

SECTION

3. Sea weed not to be piled below high water mark.

SECTION 1. If any person shall collect or carry away from any salt marsh or flats in any town in this State, any flats weed or

any sea weed thrown thereon by the sea or tide, without leave of the owner of such marsh or flat, he shall on conviction thereof before any justice, on complaint, be punished by fine not exceeding ten dollars for each offence. (*R. S., chap. 123, sec. 1.*)

SEC. 2. If any person shall collect and carry away or pile up for the purpose of carrying away, any sea weed or rock weed from the sea shore below high water mark, in any town in this State, or shall assist therein between daylight in the evening and daylight in the morning, he shall be punished by fine not less than twenty-five dollars nor more than fifty dollars, for the use of the county in which such offence shall be committed. (*R. S., chap. 123, sec. 2, amended by laws of 1850, chap. 1001, sec. 1.*)

SEC. 3. If any person shall pile up for the purpose of hauling away any sea weed or rock weed below high water mark, in any town in this State, he shall on conviction thereof be punished by fine not less than five nor more than ten dollars for the use aforesaid. (*R. S., chap. 123, sec. 3, amended by laws of 1850, chap. 1001, sec. 2.*)

CHAPTER 130.

OF HAWKERS AND PEDLERS.

IDENTICAL WITH

Chapter 734, Laws of 1848.

SECTION

1. Penalty for peddling without license.
2. Citizen of this State not liable for penalty, on conditions.
3. Clerk C. C. Pleas may grant license.
4. License when available to a resident of the State.

SECTION

5. License when available to a person not a resident.
6. Penalty for transferring a license, &c.
7. Justices of the peace may order recognizances.

SECTION 1. Every pedler or other person going from place to place, either on foot or with a horse, or otherwise, carrying to sell or exposing for sale any goods, wares or merchandise, or taking a store or shop or residence in any town for that purpose for a less time than one year, without license, shall be punished by a fine of not less than ten nor more than fifty dollars.

SEC. 2. The provisions of the preceding section shall not apply to any citizen of this State who shall present to the clerk of the court of common pleas, a certificate from the selectmen of the town in which he resides, of his inability to earn a subsistence by manual labor, by reason of ill health or decrepitude, nor to any person going about or otherwise selling or exposing for sale, fish,

breadstuffs, meat and animals, or any articles of the growth, produce or manufacture of this State, except distilled spirits, playing cards, lottery tickets and jewelry.

SEC. 3. The clerk of the court of common pleas for the county in which any applicant, being a resident of this State, may reside, or of any county, if such applicant be not a resident of this State, may grant such license for one year only, upon application, and satisfactory evidence on oath of the residence and good moral character of the applicant, being filed in the office of said clerk; such license shall be recorded and a copy delivered to the party applying, and said clerk shall receive for his fees in relation to said license, the sum of one dollar, to be paid by the applicant.

SEC. 4. No license granted in pursuance of the provisions of this chapter shall be of any avail until the party applying shall, if a resident of this State at the time of such application and for at least one year next prior thereto, have paid to the county treasurer the sum of ten dollars, or if not such resident of this State, until the applicant shall have paid to the county treasurer the sum of twenty dollars, and the said treasurer shall have signed a receipt for the same on the back of such license.

SEC. 5. Nor shall any such license be of any avail to authorize the sale of any goods, wares or merchandise, the property of any person or persons who shall not at the time of such application and for at least one year next previous thereto, have been an inhabitant, or resident of this State, until such applicant shall in like manner have paid to said treasurer the sum of twenty dollars, and the said treasurer shall have so receipted for the same on the back of such license, or unless leave for the sale of such property shall be expressed in such license.

SEC. 6. If any pedler or other person licensed as aforesaid shall transfer his license to any other person, with intent that the same shall be fraudulently used by him, or if any person licensed as aforesaid shall refuse to show his license when requested by any person, he shall be punished in the same manner as for selling without license.

SEC. 7. Every justice on complaint for any violation of this chapter may by warrant cause the offender to be arrested, and order him to recognize with sufficient sureties for his appearance at the next term of the court of common pleas, to answer for said offence.

CHAPTER 131.

OF SHOWS AND EXHIBITIONS.

COMPILED FROM

Chapter 125 of the Revised Statutes.

" 971, Laws of 1850.

SECTION

1. No shows exhibited without license.
2. No theatrical exhibition shall be performed without license.
3. Form of license.

SECTION

4. All licenses under this chapter to be paid in advance.
5. Penalty for offences.
6. Justices may bind over.

SECTION 1. No showman, tumbler, rope dancer, ventriloquist, or other person shall for pay exhibit any feats of agility or of horsemanship, or sleight of hand, rope dancing, or feats with cards, or any animals, wax figures, puppets or other show without a license from the selectmen of the town. (*R. S., sec. 1.*)

SEC. 2. No theatrical or dramatic representation shall be performed or exhibited, in any town in this State, unless a license therefor shall first be obtained from the selectmen of such town, in the same manner and under the same penalty as is provided in the act to which this is an amendment (this chapter.) (*Laws of 1850, chap. 971.*)

SEC. 3. Every such license shall be in writing and shall specify the days such person is allowed to perform or exhibit, and every such person shall pay for such license, for the use of the town, a sum not less than thirty dollars nor more than fifty dollars, for each day such person shall perform or exhibit. (*R. S., sec. 2.*)

SEC. 4. All licenses under this act (this chapter) shall be paid for in advance. (*Laws of 1850, chap. 971.*)

SEC. 5. If any person shall violate the provisions of this chapter, he shall for every such offence be punished by a fine of one hundred dollars, one half for the use of the town, the other half for the use of the complainant. (*R. S., sec. 3.*)

SEC. 6. Any justice on complaint of any violation of said provisions, may by warrant cause the offender to be arrested and order him to recognize with sufficient sureties for his appearance at the next court of common pleas to answer for said offence. (*R. S., sec. 4.*)

CHAPTER 132.

OF RECORDING BIRTHS, MARRIAGES AND DEATHS.

IDENTICAL WITH
Chapter 1103, Laws of 1851.

SECTION

1. Town clerks to record births, marriages and deaths; compensation.
2. Physicians to keep a record of births and deaths; copy furnished town clerk; when no attending physician,

SECTION

- notice by whom given to clerk; compensation.
3. Justices, ministers, &c., to make return of marriages.
4. Penalty for neglect to make return.

SECTION 1. The town clerk of every town and the city clerk of every city in this State, shall record every birth, marriage and death in his respective town or city, that shall come to his knowledge, in the manner hereinafter prescribed, stating the names of the parents of the children born, and the residence of the persons married and deceased, and the age of the deceased, if known; for which service said clerk shall receive the sum of six cents for the record of each birth, marriage or death by him recorded, to be paid by the town or city where the record is made.

SEC. 2. Every physician shall keep a record of the several births in which he shall assist professionally; also the death of all persons upon whom he shall hereafter attend in their last sickness and at the time of such death; which record shall contain the date of such birth, the sex of the child, and the names and residence of the parents; also the date of such death, the name, age, and residence of the deceased, and shall annually hereafter, in the month of April, furnish a copy of the record of such births to the clerk of the town in which the parents of such child reside; and also to the clerk of the town in which such death occurred a copy of the record of such death or deaths; and in case there shall have been no attending physician as aforesaid, every parent, person next of kin, householder, and keeper of any almshouse, poor farm or prison, shall give notice to such clerk of every birth, with the names of the parents, and death, with the name, age and residence of the deceased, which shall take place in their respective families or houses in each town or city; and for each birth or death so rendered, every physician shall receive of the clerk to whom such copy may be furnished, the sum of five cents, to be paid by the town or city where such clerk resides.

SEC. 3. Every justice, minister or clerk of the people called Friends, shall annually return to the clerk of the town or city where such marriage was solemnized, and to the clerk of the town or city where each of the persons so joined in marriage may reside, if within this State, a certified copy of his record.

SEC. 4. If any person whose duty it is to make such record and return shall neglect so to do for the space of one year after the date of such birth, marriage or death, he shall forfeit five dollars for such offence, to be recovered in an action of debt, one half for the use of the prosecutor and the other half for the use of the county in which the defendant may reside.

CHAPTER 133.

OF THE DESTRUCTION OF NOXIOUS ANIMALS AND THE PRESERVATION OF GAME.

COMPILED FROM

Chapter 127 of the Revised Statutes.

" 1124, Laws of 1851.

SECTION

1. Bounties for destruction of wolves.
2. " " " " bears.
3. " " " " wildcats.
4. Bounties refunded from state treasurer.
5. Dogs without collars may be killed.

SECTION

6. Towns may make by-laws respecting dogs.
7. Owners of dogs liable for damage.
8. Fur-bearing animals, penalty for destroying.

SECTION 1. If any person shall kill any wolf or wolf's whelp within this State, and shall produce the head thereof to the selectmen of the town within which it was killed; or if there be no selectmen in such town, then to the selectmen of the nearest town having such officers; and shall prove to the satisfaction of such selectmen that such wolf or wolf's whelp was killed by himself or by some person whose agent he is; the selectmen shall cut off the ears from the head so produced, and shall otherwise so disfigure the same that it shall never again be offered for a bounty, and shall pay to such person or his order twenty dollars for every wolf and ten dollars for every wolf's whelp killed as aforesaid.

SEC. 2. If any person shall kill any bear within this State and shall proceed with the same as is directed in the first section of this chapter, he shall receive therefor the sum of two dollars.

SEC. 3. If any person shall kill any wildcat known by the name of Siberian lynx, within this State, and shall proceed with the same in the manner directed in the first section of this chapter, he shall receive therefor the sum of one dollar.

SEC. 4. The selectmen of every such town shall keep a true account of the moneys so paid, and the number of each species of animal for which bounties have been paid, and upon presentation of such account certified by a majority of such selectmen to be just and true, to the treasurer of the State in the month of June,

the same shall be paid from the state treasury, either to the representative of such town, or to the selectmen thereof or their written order.

SEC. 5. No person shall be liable by law for killing any dog which shall be found not having around his neck a collar of brass, tin or leather, with the name of the owner or owners carved or engraved thereon.

SEC. 6. Any town may make by-laws for licensing, regulating or restraining dogs as they shall deem expedient, and may affix penalties for the violation thereof not exceeding five dollars, and the sum to be paid for any license not exceeding two dollars.

SEC. 7. Any person to whom, or to whose property any damage may be occasioned by a dog not owned or kept by said person, shall be entitled to recover of the person who owns, or keeps, or has said dog in possession, in an action on the case, or other proper form of action, all damages which may be so occasioned, except in cases where the same may have been occasioned to the party suffering such damage while engaged in the commission of a trespass or other tort. (*Laws of 1851, chap. 1124.*)

SEC. 8. If any person shall, at any time between the thirtieth day of May and the first day of November, in any year, by shooting, trapping or otherwise, kill or destroy any beaver, mink, otter or muskrat, he shall forfeit for every mink or muskrat so killed one dollar, and for every beaver or otter so killed, five dollars, to be recovered by action of debt in the name and to the use of any person who shall sue therefor.

CHAPTER 134.

RELATING TO SHEEP.

IDENTICAL WITH

Chapter 128 of the Revised Statutes.

SECTION

1. Marks of sheep to be recorded.
2. Penalty for altering or defacing marks.

SECTION

3. Penalty for rams going at large.

SECTION 1. Any person may mark in the ear or brand his sheep as he may think proper, and cause a description of such mark or brand to be recorded by the town clerk of the town in which he resides, or in which his sheep may be kept, and the town clerk shall be entitled to receive six cents for recording the same.

SEC. 2. If any other person shall wilfully alter, cut out or deface the mark or brand of any such sheep, or if any person under pretence of marking the same shall cut off the ear or ears of any

sheep, he shall forfeit five dollars for every such offence, to the use of any person who will sue for the same.

SEC. 3. If any person shall wilfully or negligently suffer any ram belonging to him or in his care, to go at large out of his enclosure between the first day of August and the first day of December, in any year, he shall forfeit for every such offence the sum of five dollars, for the use of any person who will sue for the same or who shall impound such animal.

TITLE XV.

OF THE TITLE TO, ALIENATION OF, AND LIENS UPON REAL AND PERSONAL ESTATE.

- CHAPTER 135. Of estates in real property.
- CHAPTER 136. Of the conveyance of real estate.
- CHAPTER 137. Of mortgages of real estate.
- CHAPTER 138. Of mortgages of personal property.
- CHAPTER 139. Of the liens of mechanics and others.
- CHAPTER 140. Of assignments for the benefit of creditors.

CHAPTER 135.

OF ESTATES IN REAL PROPERTY.

IDENTICAL WITH

Chapter 129 of the Revised Statutes.

SECTION

1. Estate in tail, how conveyed in fee.
2. " In joint tenancy, not created unless expressly.
3. Joint heirs to be tenants in common.
4. Aliens resident may hold real estate.

SECTION

5. Escheats to state discharged.
6. Conveyance of greater estate than grantor possesses, conveys all his interest.

SECTION 1. Any person seized of any lands in fee tail may convey the same by deed in common form, in the same manner as estates in fee simple, and such conveyance shall bar the estate tail, and all remainders and reversions expectant thereon.

SEC. 2. Every conveyance or devise of real estate made to two or more persons, shall be construed to create an estate in common, and not in joint tenancy, unless it shall be expressed therein that

such estate is to be holden by the grantees or devisees as joint tenants, or to them and the survivor of them, or other words are used clearly expressing intention to create a joint tenancy.

SEC. 3. Joint heirs shall be deemed tenants in common.

SEC. 4. Any alien resident in this State may take, purchase, hold, convey or devise any real estate, and the same may descend in the same manner as if he was a native citizen.

SEC. 5. Any right or claim of the State to the estate of any such alien, by escheat or otherwise, is hereby discharged.

SEC. 6. A conveyance made by any person having a limited interest in any estate, purporting to convey a greater interest than he possessed or could lawfully convey, shall not work a forfeiture thereof, but shall pass to the grantee all the estate which he could lawfully convey.

CHAPTER 136.

OF THE CONVEYANCE OF REAL ESTATE.

IDENTICAL WITH

Chapter 130 of the Revised Statutes.

SECTION

1. Conveyance of land, how made.
2. Corporations may convey by agent.
3. Deed must be signed, sealed, witnessed, acknowledged and recorded.
4. Deed not valid, except against grantor, unless acknowledged and recorded.
5. Deed may be recorded in another county.
6. Powers of attorney, how executed.
7. Deed not acknowledged valid for 60 days.

SECTION

8. Deed not acknowledged, how proved if grantor insane, dead or absent.
9. Deed not acknowledged, how proved if witnesses dead, insane or absent.
10. Deed not acknowledged, how proved if grantor refuses to acknowledge.
11. If holder of a deed refuses to record it, proceedings.
12. Estates not to be created, or conveyed except by writing, or by force of law.
13. Trusts not to be created except by writing.

SECTION 1. Conveyances of lands may be made by deed executed by any person or by his attorney, acknowledged and recorded as directed in this chapter, without any other act or ceremony whatever.

SEC. 2. Any public or private corporation authorized to hold real estate, may convey the same by an agent appointed by vote for that purpose.

SEC. 3. Every deed or other conveyance of real estate shall be signed and sealed by the party granting the same, attested by two

or more witnesses, acknowledged by such grantor before a justice of the peace, notary public or commissioner, or before a minister or consul of the United States in a foreign country, and recorded at length in the registry of deeds in the county in which such lands lie.

SEC. 4. No deed of bargain and sale, mortgage or other conveyance of any real estate, or any lease for more than seven years from the making thereof, shall be valid to hold the same against any person but the grantor and his heirs only, unless such deed or lease be attested, acknowledged and recorded according to the provisions of this chapter.

SEC. 5. Any person, interested in any such deed or lease, may cause the same to be recorded in the registry of any other county; and in case of the destruction of the records of the county where such estate lies, an attested copy of such deed from the registry of such other county, shall be of the same validity as a copy from the original registry.

SEC. 6. Every power of attorney to convey real estate must be signed, sealed, attested and acknowledged, and may be recorded in the same manner as is required for a deed, and a copy of the record may be used in evidence, whenever a copy of the deed so made is admissible.

SEC. 7. Any deed, not acknowledged by the grantor, but in other respects duly executed, may be recorded, and for sixty days after such recording shall be as good and effectual in law as if duly acknowledged.

SEC. 8. If any grantor or lessor shall die, become insane or go out of the State before the acknowledgment of any deed or lease by him made, the due execution thereof may be proved by one or more of the subscribing witnesses, before any court of record in this State.

SEC. 9. If such subscribing witnesses are dead, insane, out of the State, or so situated that their testimony cannot be had, proof of such due execution may be made, by the oath of two witnesses acquainted with the hand writing of such grantor or lessor and of the subscribing witnesses, that such deed or lease was made by them.

SEC. 10. If the grantor or lessor shall refuse to acknowledge any deed or lease, proof of its due execution may be made in the manner provided in the two sections preceding; but if such grantor or lessor is a resident of this State, notice of the time and place of proving the same, signed by some justice of the peace, shall be delivered to him or left at his usual place of abode fifteen days prior to such time. Every unacknowledged deed proved agreeably to this or either of the two preceding sections, shall be good and effectual as if duly acknowledged.

SEC. 11. If any person having any deed or other evidence of title of any real estate not recorded, shall neglect to record the same, or refuse to allow the same to be recorded for the space of thirty

days after being thereto requested in writing, by any person having an interest in such estate, any justice of the peace upon complaint thereof, may issue his warrant and cause such person to be brought before him for examination, and if sufficient cause for such neglect or refusal is not shown, may order such deed or evidence of title to be recorded, and commit him to jail until such order is performed, and payment of costs is made.

SEC. 12. Every estate or interest in lands, created or conveyed without an instrument in writing signed by the grantor or his attorney, shall be deemed an estate at will only, and no estate or interest in lands shall be assigned, granted or surrendered except by writing signed as aforesaid, or by operation of law.

SEC. 13. No trust concerning lands, excepting such as may arise or result by implication of law, shall be created or declared unless by an instrument signed by the party creating the same, or by his attorney.

CHAPTER 137.

OF MORTGAGES OF REAL ESTATE.

IDENTICAL WITH

Chapter 131 of the Revised Statutes.

SECTION

1. What is deemed to be a mortgage.
2. No estate encumbered by a condition not in writing and made part of deed.
3. Mortgage to secure only existing liability.
4. Mortgage to be void on the performance of its condition.
5. Release by mortgagee, how obtained.
6. Court may decree a discharge.
7. Decree recorded, of same effect as a release.
8. Mortgagee shall give account of sum due on the mortgage.

SECTION

9. If mortgagee neglects, proceedings.
10. Payment of sum into court, a discharge.
11. Issues of fact to be tried by jury.
12. Petition to be filed within one year.
13. Redemption of mortgaged property.
14. Foreclosure of mortgages.
15. Expenses of foreclosure, how paid.
16. Evidence of entry, &c., how preserved.
17. "Mortgager" and "mortgagee," meaning.

SECTION 1. Every conveyance of lands, made for the purpose of securing the payment of money or the performance of any other thing in the condition thereof stated, is a mortgage within the meaning of this act.

SEC. 2. No conveyance in writing of any lands shall be defeated, nor any estate encumbered, by any agreement, unless it is

inserted in the condition of the conveyance and made part thereof, stating the sum of money to be secured, or other thing to be performed.

SEC. 3. No estate conveyed in mortgage shall be holden by the mortgagee for the payment of any sum of money, or the performance of any other thing, the obligation or liability to the payment or performance of which arises, is made or contracted after the execution and delivery of such mortgage.

SEC. 4. Upon the performance of the acts stated in the condition of any mortgage, and the payment of all damages and costs arising by reason of the non-performance of such condition, according to the terms thereof, or upon the legal tender of such performance and payment, such mortgage shall be void.

SEC. 5. If after such performance or payment, or a legal tender thereof, the mortgagee, or person having his estate, being duly requested and having his reasonable charges therefor tendered to him, shall refuse or neglect to execute a release of his interest in the mortgaged premises, the mortgager or person having his estate, may apply by petition to the court of common pleas in the county where the mortgaged estate or the greater part thereof lies, stating the conveyance of the estate, the condition of the conveyance and the performance, payment or tender thereof, as aforesaid, and praying for a decree of discharge and other relief thereon.

SEC. 6. If said court after proof of due notice given, and a hearing on such petition, shall find that the condition of such mortgage has been performed, and all damages and costs paid according to law, or that a legal tender thereof has been made, and the amount of debt and damages brought into court and lodged with the clerk thereof, the court shall decree that such mortgage be discharged.

SEC. 7. A copy of such decree recorded in the registry of deeds for the county in which such lands lie, shall have the same effect as a release duly executed by the mortgagee.

SEC. 8. The mortgagee upon a request in writing by the mortgager shall make out and deliver to him or his agent, a just and true account of all his demands secured by such mortgage, and all damages and costs incurred by reason of the non-performance of the condition thereof, and of all rents and profits by him received.

SEC. 9. If he shall unreasonably refuse or neglect to make out and deliver such account, the court of common pleas upon petition by the mortgager setting forth the facts in the case, and due notice given to the parties interested, shall determine the amount justly due after deducting rents and profits received.

SEC. 10. Upon such amount being brought into court and lodged with the clerk thereof, the court shall decree that such mortgage be discharged, and a copy of such decree recorded in the registry of deeds for the county in which such lands lie, shall have the same effect as a release duly executed by the mortgagee.

SEC. 11. If upon the hearing of any petition aforesaid any issue of fact shall arise, such issue, if either party elects, may be determined by a jury, and costs shall be awarded to the prevailing party.

SEC. 12. No such petition shall be heard unless the same shall be entered in court within one year after such payment, performance or tender, refusal or neglect.

SEC. 13. All lands conveyed in mortgage may be redeemed after the condition thereof is broken, by the mortgager, by the payment of all demands and the performance of all things secured by such mortgage, and all damages and costs sustained and incurred by reason of the non-performance of the condition of the same, or by a legal tender thereof before foreclosure.

SEC. 14. The right of the mortgager to redeem any mortgaged premises, shall be forever barred and foreclosed by the mortgagee in the following modes:—

First; by entry into the mortgaged premises under process of law, and continued, actual possession thereof for one year:

Second; by peaceable entry into the mortgaged premises, and continued, actual, peaceable possession thereof for the space of one year, and by publishing in some newspaper printed in the same county, if any there be, otherwise in some newspaper printed in some adjoining county, three weeks successively, a notice stating the time at which such possession taken for condition broken commenced, the object of such possession, the name of the mortgager and mortgagee, the date of the mortgage and a description of the premises, the first publication to be six months at least before such right to redeem would be foreclosed:

Third; by the mortgagee in possession of the mortgaged premises giving notice to the mortgager or person interested therein, that such possession is holden for the purpose of foreclosing the right to redeem, and by retaining actual, peaceable possession thereof for one year after such notice, and by publishing a like notice as in the case of a peaceable entry.

SEC. 15. The expense of such publication and thirty-four cents for such notice, shall be paid to the mortgagee by the person redeeming such mortgage, and before the redemption thereof.

SEC. 16. The affidavit of the party making any entry into real estate, and of the witnesses thereto as to the time, manner and purposes of such entry, and a copy of the published notice verified by affidavit as to the time, place and mode of publication, recorded in the registry of deeds for the county in which the lands lie, shall be evidence of such entry and publication.

SEC. 17. The word "mortgager" or "mortgagee," in this title, shall be construed to include any person claiming under or representing him.

CHAPTER 138.

OF MORTGAGES OF PERSONAL PROPERTY.

COMPILED FROM

Chapter 132 of the Revised Statutes.

" 147, Laws of 1844.

" 235, " " 1845.

SECTION

1. What property may be mortgaged.
2. Mortgage must be recorded or possession of property taken.
3. Clerks of unincorporated places to record mortgages.
4. Unincorporated place having no clerk, where mortgage recorded.
5. Mortgager and mortgagee to make oath.
6. Oath of one partner sufficient.
7. Form of oath to be varied.
8. Certificate of oath to be recorded.
9. Falsehood in such oath is perjury.
10. Mortgage not valid unless the foregoing provisions are complied with.

SECTION

11. Mortgager shall not sell or pledge mortgaged property without leave.
12. Mortgager shall not mortgage the same without notice.
13. Penalty for such sale or mortgage.
14. Bottomry, respondentia bonds, &c., excepted from this chapter.
15. Town clerk shall record mortgages, &c.
16. Time and mode of redemption.
17. Mortgagee may sell property.
18. Notice of sale, how given.
19. Mortgagee may be purchaser.

SECTION 1. Personal property and crops of every description, whether the same have or have not come to maturity, are subject to mortgage agreeably to the provisions of this chapter.

SEC. 2. Possession of the mortgaged property must be delivered to and retained by the mortgagee, or the mortgage must be recorded in the office of the clerk of the town in which the mortgager resides at the time of making the same.

SEC. 3. All the provisions of the laws of this State, relating to the recording of mortgages of personal property in the several towns, are extended to, and shall be in force, in all unincorporated places, which are, or shall be, required to pay any public tax; and the clerks of such unincorporated places are hereby required to record all such mortgages in the same manner as town clerks are required, by law, to record mortgages of personal property in the several towns in this State. (*Laws of 1844, chap. 147, sec. 1.*)

SEC. 4. Whenever it shall be necessary to record any such mortgage in any unincorporated place in this State, where no clerk is chosen, then the same may be recorded by the town clerk of the town, or the clerk of the place, adjoining said unincorporated place paying the greatest proportion of the state tax, and it shall be the duty of such clerks so to record the same. (*Laws of 1844, chap. 147, sec. 2.*)

SEC. 5. Each mortgager and mortgagee shall make and subscribe an affidavit in substance as follows:

"We severally swear that the foregoing mortgage is made for the purpose of securing the debt specified in the condition thereof, and for no other purpose whatever, and that said debt was not created for the purpose of enabling the mortgager to execute said mortgage, but is a just debt, honestly due and owing from the mortgager to the mortgagee."

SEC. 6. Where co-partnerships are parties to mortgages of personal property, the affidavit required may be made and subscribed by any member of any partnership in behalf of the firm to which he belongs, and every such mortgage duly made and recorded, together with an affidavit made and subscribed by a single member thereof in behalf of any firm, shall be as valid and effectual to all intents and purposes, as if such affidavit had been made and subscribed by every member of such firm. (*Laws of 1845, chap. 235.*)

SEC. 7. If such mortgage is given to indemnify the mortgagee against any liability assumed, or to secure the fulfilment of any agreement other than for the payment of a debt due from the mortgager to the mortgagee, such liability or agreement shall be stated truly and specifically in the condition of the mortgage, and the affidavit shall be so far varied as to verify the validity, truth and justice of such liability or agreement. (*R. S., sec. 4.*)

SEC. 8. Every such affidavit, with the certificate of the justice who administered the oath, shall be made upon or appended to such mortgage and recorded therewith. (*R. S., sec. 5.*)

SEC. 9. All wilful falsehood committed in any such affidavit, shall be deemed to be perjury and punished accordingly. (*R. S., sec. 6.*)

SEC. 10. No such mortgage shall be valid against any person except the mortgager, his executors and administrators, unless possession is delivered or the mortgage is sworn to and recorded in the manner herein prescribed. (*R. S., sec. 7.*)

SEC. 11. No mortgager of personal property shall sell or pledge any such property by him mortgaged, without the consent of the mortgagee in writing upon the back of the mortgage, and on the margin of the record thereof in the office where such mortgage is recorded. (*R. S., sec. 8.*)

SEC. 12. No mortgager shall execute any second or subsequent mortgage of personal property, while the same is subject to a previously existing mortgage given by such mortgager, unless the fact of the existence of such previous mortgage is set forth in the subsequent mortgage. (*R. S., sec. 9.*)

SEC. 13. If any mortgager shall be guilty of any offence against either of the two sections preceding, he shall be punished by fine equal to double the value of the property so wrongfully sold, pledged or mortgaged, one half to the use of the party injured and the other half to the use of the county. (*R. S., sec. 10.*)

SEC. 14. Nothing in this chapter contained shall affect any transfer of property under bottomry or respondentia bonds, or of any ships or goods at sea or abroad, if the mortgagee shall take possession thereof as soon as may be after their arrival in this State. (*R. S., sec. 11.*)

SEC. 15. Every town clerk shall keep a book of records for personal mortgages, at the expense of the town, shall record therein any mortgage, transfer, consent or discharge, or give a certified copy thereof, when requested, upon payment of the fees therefor, shall certify the time when the same is received and recorded, and keep an alphabetical index of mortgagers and mortgagees, which records and index shall be open to public inspection. (*R. S., sec. 12.*)

SEC. 16. When the condition of any mortgage of personal property has been broken, the mortgager may redeem the same by paying or tendering to the mortgagee the amount due on such mortgage, with all reasonable expenses incurred by reason of such breach of condition, at any time before a sale thereof as is herein-after prescribed. (*R. S., sec. 13.*)

SEC. 17. The mortgagee may at any time after thirty days from the time of condition broken, sell the mortgaged property or any part thereof, at public auction, notice of the time, place and purposes of such sale being posted up at two or more public places in the town in which such sale is to be, four days at least prior thereto. (*R. S., sec. 14.*)

SEC. 18. The mortgagee shall notify the mortgager of the time and place of sale, either by notice in writing delivered to the mortgager, or if a corporation, to the person on whom legal process may be served, or left at his place of abode, (if within the town) at least four days previous to the sale. If the mortgager does not reside in the town, the posting up of notices as required in the preceding section shall be sufficient. (*R. S., sec. 15.*)

SEC. 19. Such mortgagee may be a purchaser at such sale, and the proceeds of such sale shall be applied by him to the payment of the demand secured by such mortgage, and the expenses of keeping and sale; and the residue, if any, shall be paid to the mortgager on demand. (*R. S., sec. 16.*)

CHAPTER 139.

OF THE LIENS OF MECHANICS AND OTHERS.

COMPILED FROM

Chapter 133 of the Revised Statutes.

" 1116, Laws of 1851.

SECTION

1. Laborers on vessels to have lien.
2. Such lien, how secured.
3. Lien on buildings, when given.
4. Contract to be recorded.
5. Town clerk to file such contract.
6. Such lien secured by attachment.
7. Subject to prior mortgage or attachment.

SECTION

8. Priority of liens, how determined.
9. Lien where contracts partly performed.
10. Lien discharged by payment or tender.
11. Not to take effect until adopted by town.

SECTION 1. If any person shall perform any labor, or furnish any material towards building, repairing, fitting or furnishing any vessel, either within this State, or which shall come within the limits of this State, before the same is completed, payment on which is due, he shall have a lien therefor on such vessel for the space of four days after the vessel is completed. (*Laws of 1851, chap. 1116.*)

SEC. 2. Such lien may be secured by attachment of the vessel within said four days, and such attachment shall have precedence of all other attachments and claims, except the lien for mariners' wages.

SEC. 3. If any person under any written contract shall furnish any labor or materials for erecting, repairing or altering any building, he shall have a lien therefor upon such house or building, and upon the interest of the person for whom such labor and materials are furnished, in the lot of land on which it stands, for the space of thirty days after the payment of said labor or materials shall become due by said contract.

SEC. 4. Such lien shall not attach, unless such contract is made in writing expressing the terms thereof fully, and a true copy of the same left with the town clerk of the town in which such house or building is situate.

SEC. 5. The town clerk shall receive such copy, minute thereon the time when received, and keep the same on file, for which he shall receive seventeen cents.

SEC. 6. Such lien may be secured within the thirty days aforesaid, by an attachment of such building and land, and such attachments shall have precedence of all attachments made where no such lien exists, after the filing of such contract with the town clerk.

SEC. 7. If the land on which such building is situate or to be erected, is under mortgage or attachment at the time of filing the copy of the contract as aforesaid, such prior mortgagee or attaching creditor shall be preferred to the extent of the value of the land and building at that time.

SEC. 8. If two or more persons having such lien upon the same property shall secure the same by attachment, they shall severally hold according to the priority of their several liens.

SEC. 9. If the owner of such land or building shall have failed to perform his part of any such contract, by reason whereof the other party shall without his default have been prevented from completing such contract, the latter shall have a lien on such building and land for such sum as is his due for what he has done.

SEC. 10. Any lien aforesaid may be discharged at any time by the payment or tender of the amount due, together with the costs of any attachment made to secure the same.

SEC. 11. The provisions of this chapter shall not be in force in any town, unless adopted by such town at some meeting called for that purpose.

CHAPTER 140.

OF ASSIGNMENTS FOR THE BENEFIT OF CREDITORS.

IDENTICAL WITH

Chapter 134 of the Revised Statutes.

SECTION

1. No assignment valid unless distribution equal.

SECTION

2. Assignments must be made under oath.

SECTION 1. No assignment made for the benefit of the creditors of any debtor making the same, shall be valid unless it provides for an equal distribution of all the estate, rights and credits of such debtor among all his creditors in equal proportion to their respective claims.

SEC. 2. No such assignment shall be valid until the person making the same, shall have made oath that he has placed and assigned, and the true intention of his assignment is to place in the hands of his assignee all his property of every description, except such as is by law exempted from attachment and execution, to be divided among all his creditors in proportion to their respective claims.

TITLE XVI.

PROVISIONS RESPECTING MILLS, FENCES, POUNDS, FLOATING TIMBER, STRAYS AND LOST GOODS.

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- CHAPTER 141. Of mills and their repairs.
 CHAPTER 142. Of fences and common fields.
 CHAPTER 143. Of pounds and distraining of animals.
 CHAPTER 144. Of floating timber and damages therefrom.
 CHAPTER 145. Of strays and lost goods.
 CHAPTER 146. Of coast survey.
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CHAPTER 141.

OF MILLS AND THEIR REPAIRS.

IDENTICAL WITH
Chapter 135 of the Revised Statutes.

SECTION	SECTION
1. Repairs in mills and dams, how made.	7. On neglect, other owners may repair.
2. Mill owners may apply to selectmen.	8. In case mill in two towns, proceedings.
3. Facts to be stated in the application.	9. Special contracts not affected.
4. Notice of hearing, how given.	10. Tolls, what allowed by law.
5. If party is a minor, married woman, ward, tenant, &c.	11. Penalty for taking more.
6. Selectmen may order repairs, when.	

SECTION 1. All necessary repairs in any mill, milldam or flume owned by joint tenants or tenants in common, or in any milldam or flume owned in severalty, when the privilege of the water is owned jointly or in common, shall be made by such owners in proportion to their respective interests therein.

SEC. 2. When in the opinion of any owner of any part or share of a mill, milldam or flume, it shall be necessary that such mill, milldam or flume be rebuilt or repaired, and the other part owners shall neglect to rebuild or repair the same immediately, he may apply by petition in writing to the selectmen of the town in which such mill, milldam or flume is situated, to appoint a time and place of hearing thereon.

SEC. 3. Such petition shall contain a description of the premises, of the names and shares of all persons interested therein who are known, and of the object of the hearing, and a request that

such hearing may be appointed and notice thereof given according to law.

SEC. 4. The selectmen shall appoint a time and place of hearing on such petition, and shall notify all persons interested therein by causing a true and attested copy of such notice to be given in hand to or left at the usual place of abode of every such person, at least fourteen days before the day of hearing, if such person is known and is an inhabitant of this State, otherwise by causing such notice to be posted up in two or more public places in the town twenty days before the meeting, and published in some newspaper printed in the same county, if any there be, if not, in some adjoining county, three weeks successively, the last publication to be not less than ten days before such day of meeting.

SEC. 5. If any person interested is a minor, married woman, tenant for life or years, mortgager or mortgagee in possession, or person under guardianship, the guardian of such minor, the husband of such married woman, such tenant, mortgager or mortgagee in possession or guardian shall be notified as aforesaid, and shall rate and contribute as if personally interested; and any sum so contributed and paid shall be a lien upon such estate and a legal charge against the person for whom the same is paid.

SEC. 6. If upon any such hearing the selectmen or a majority of them shall be of opinion that such milldam or flume ought to be repaired or rebuilt, they shall order each delinquent part owner to repair or rebuild his part or share thereof, in such manner and within such time as they shall think reasonable, and to pay such portion of the costs as they shall award; but no order to rebuild shall issue unless assented to by the owners of one half at least of such mill, milldam or flume.

SEC. 7. If any such delinquent shall not comply with such order, any one or more of the other part owners may rebuild or repair his part or share of such mill, milldam or flume, the cost of which shall be appraised by the selectmen aforesaid and certified by them, together with their own and all other fees, which sum may be recovered of such delinquent with interest, if he receives the benefit thereof, or otherwise shall be a lien upon such part, and the rents and profits thereof, until such sum with interest thereon at the rate of nine per cent., and all taxes and repairs shall be repaid in full.

SEC. 8. If such mill, milldam or flume shall be situate in more than one town, petition shall be made to and acted upon by the selectmen of all such towns, acting as one board.

SEC. 9. If any special contract has been made by such part owners respecting rebuilding or repairing any mill, milldam or flume, it shall not be affected by the provisions of this chapter.

SEC. 10. The toll for grinding grain of any kind shall not be more than one sixteenth part thereof, and for bolting not more than one sixty-fourth part thereof.

SEC. 11. If any owner of any grist mill, or any person employed therein, shall take more toll than as aforesaid, he shall forfeit for every offence five dollars, to be recovered by action of debt in the name and to the use of the person injured thereby; and shall moreover be liable, at the suit of the party injured, for damages.

CHAPTER 142.

OF FENCES AND COMMON FIELDS.

IDENTICAL WITH
Chapter 136 of the Revised Statutes.

SECTION	FENCES.	SECTION	COMMON FIELDS.
1.	Partition fences supported equally.	13.	Fence viewers to give notice.
2.	Division of fences to be in writing, and recorded.	14.	How paid, who liable for costs.
3.	Fence viewers may make division.	15.	Applications to be in writing.
4.	Fences, what are legal.	16.	Decisions of fence viewers to be final.
5.	Fence viewers may direct repairs.	17.	If fence in two towns, who act.
6.	Owner of adjoining land may repair.	18.	Occupant to be deemed owner.
7.	Fence viewers to appraise such fence.	19.	Fence viewer, penalty for neglect.
8.	Double value recovered by builder.		
9.	Owner improving to pay for fence.	20.	Common fields, how fenced.
10.	Fence viewers to appraise the same.	21.	Fence may be assigned, how.
11.	Owner ceasing to improve, rights.	22.	Taxes may be raised for repairs.
12.	Party not repairing, liable for damages.	23.	Bounds to be renewed, when.

FENCES.

SECTION 1. The owners of adjoining lands, under improvement, shall build and repair the partition fence between them in equal shares.

SEC. 2. Any division of such fence made by the parties in writing and recorded in the town records, shall be forever binding upon the parties and all succeeding owners and occupants of the land.

SEC. 3. If the parties shall not agree upon a division, the fence viewers of the town, upon application, shall make such division, which, being recorded in the town records, shall be of the same force as a division made by the parties, and a copy of such record shall be evidence.

SEC. 4. All fences four feet high and in good repair, consisting of rails, timber, boards or stone walls, and all brooks, rivers, ponds, creeks, ditches, hedges and other things deemed by the fence view-

ers to be equivalent thereto, shall be accounted legal and sufficient fences.

SEC. 5. The fence viewers, upon application of either party, shall view any fence alleged to be insufficient, and if they judge the same to be insufficient, they shall limit a time for the building or repair of the same, and give notice to the delinquent party to build or repair the same within the time so limited.

SEC. 6. If the party so notified shall not build or repair such fence within the time so limited, the owner of the adjoining land may build or repair the same.

SEC. 7. The fence viewers, upon application, shall view the fence so built or repaired, and if they judge the same and the residue of the fence between the same owners, upon the same tract of land, to be sufficient, they shall appraise the fence so built or repaired.

SEC. 8. The person so building or repairing such fence, shall have the right to demand and recover double the said appraised value thereof of the delinquent party, with costs of suit, in an action of assumpsit for labor and materials.

SEC. 9. If the owner of land shall have improved the same before the owner of adjoining land, and erected a division fence, he shall be entitled to demand and recover of such owner of the adjoining land where he shall begin to improve, the value of such part of the fence as upon any division of the fence then or previously made by the parties or the fence viewers, it was his duty to build.

SEC. 10. In the case aforesaid, if the parties do not agree, the fence viewers, on application, shall appraise such fence, and the party shall recover the value agreed upon or appraised in an action of assumpsit for so much fence sold, if the same is not paid in thirty days after a demand thereof is made.

SEC. 11. If any of the owners of adjoining land shall cease to improve his land, or shall lay the same in common, he shall not have a right to remove his part of the fence, but shall be under no obligation to repair or rebuild the same, so long as said land shall lay in common.

SEC. 12. The party neglecting to build or keep in repair any partition fence which he is bound to maintain, shall be liable for all damages arising from such neglect, and shall have no remedy for any damages happening to himself therefrom.

SEC. 13. The fence viewers shall give notice in writing to the other party interested therein of every application and of the time and place appointed for considering the same, shall hear the parties, if they attend, and their evidence, and shall reduce their decision to writing, which shall be signed, and they shall cause a copy thereof to be given to each of the parties within one week.

SEC. 14. Each fence viewer shall be allowed one dollar per day for his services, to be paid by the party making the application, and he shall be entitled to demand and recover the one half

thereof of the other party in an action of assumpsit for money paid for his use, unless in the opinion of the fence viewers justice requires a different division of the costs, in which case they may so order.

SEC. 15. Every application to the fence viewers shall be in writing, and one application may embrace so many subjects as from the nature of the case may be acted upon at one meeting.

SEC. 16. The decision of the fence viewers, upon their being duly sworn before a justice that they have acted impartially, uprightly and to the best of their judgment, shall be final and conclusive upon the parties.

SEC. 17. If the fence in controversy is situate on the line of two towns, the application shall be made to the fence viewers of the town in which the parties reside; if they reside in different towns, then to the fence viewers of that town in which the applicant does not reside.

SEC. 18. The actual occupant of any land shall be deemed the owner thereof for any of the purposes of this chapter.

SEC. 19. If any fence viewer, without sufficient cause, shall neglect to attend and perform any of the duties required by law, he shall forfeit six dollars to any person who will sue for the same.

COMMON FIELDS.

SEC. 20. When several owners of land have agreed or shall agree to improve the same in one common field, any justice, on application of two or more owners, may call a meeting of such owners, and the majority of them when met may determine in what manner the same shall be fenced.

SEC. 21. They may, in such way as they judge equitable, assign to each owner the share of fence to be erected and maintained by him, and such assignment being recorded in the town records, every such owner and all succeeding occupants of his land shall be forever subject to all such liabilities in relation thereto, as he would be if the same were a partition fence of his own land.

SEC. 22. Such owners may agree to erect and maintain such common fence by a tax, and thereupon they may adopt by-laws, and their officers shall have power in conformity to such by-laws to assess and collect such taxes.

SEC. 23. Owners of lands in common fields, or where there is no partition fence, shall once in every five years, on six days' notice previously given, run the lines and mark and renew the bounds between them, on penalty of forfeiting five dollars for each neglect, for the use of the person giving such notice.

CHAPTER 143.

OF POUNDS AND DISTRAINING OF ANIMALS.

IDENTICAL WITH

Chapter 137 of the Revised Statutes.

SECTION

1. Cattle may be impounded, when.
2. Where cattle may be impounded.
3. Estimate of damages to be left with the pound keeper.
4. Notice to owner, what and how given.
5. If owner unknown, notice how given.
6. If damages paid, creatures discharged.
7. Appraisers may be appointed, how.
8. " to make report, effect.
9. If appraised damages paid, creatures to be discharged.
10. Application for sale may be made after four days.
11. Justice may order sale or appraisal.

SECTION

12. Surplus returned to owner on request.
13. Creatures impounded treated as strays.
14. Towns to maintain pounds.
15. Rescuing cattle, penalty for.
16. Creatures rescued may be re-taken.
17. Possession of creatures, evidence of pound breach, when.
18. Creatures impounded to be fed.
19. Pay for food regulated.
20. Fees of pound keeper.
21. " of persons impounding.

SECTION 1. Any person may impound any swine, neat cattle, horses, sheep or other creatures that shall be found doing damage in his enclosure, or any such creature found going at large in any highway or street, or on any common in violation of the laws of the State or any by-laws of such town.

SEC. 2. Such creatures shall be impounded in the public pound if there is any in the town, otherwise they may be impounded by the party taking up such creatures, in his own barn or enclosure.

SEC. 3. The person impounding any creatures, shall leave with the pound keeper in writing an estimate of the damage done by such creatures, or of the penalty incurred by the owner, and the amount of the fees and charges incurred.

SEC. 4. He shall within twenty-four hours from the time of impounding, cause to be delivered to the owner or person who last had them in his possession or keeping, if known to him, or cause to be left at his usual place of abode, a notice in writing describing the creatures impounded, stating his estimate of the damage done, and the time when and the place where the same was done, or of the penalty incurred, the amount of fees and charges there incurred and the place of impounding.

SEC. 5. When the owner or keeper of any creatures impounded, is not known, the person impounding the same, shall within the same time post up a like notice in some public place in the town and in two adjoining towns.

SEC. 6. If the owner or any party claiming such creatures, shall pay the penalty or estimated damages and charges incurred to the person impounding, or to the pound keeper, the creatures impounded shall be forthwith discharged from such pound.

SEC. 7. If the owner or party claiming such creatures, shall neglect for the space of forty-eight hours or shall refuse to pay the damages estimated by the person impounding the same, either of said parties may apply to some justice of the peace, who shall notify the other party to appear before him at a time and place appointed as early as practicable, and after hearing the parties shall appoint three disinterested persons to appraise such damages.

SEC. 8. The appraisers so appointed shall notify the parties, and as early as practicable view the place where the damage is alleged to be done, and hear the parties and their evidence, and report to the justice whether any damage was done by such creatures, at the time of their last being in such enclosure only, and the sum at which they estimate the same; and such report signed by a majority of such appraisers, shall be conclusive upon the parties.

SEC. 9. Upon payment of the damages so appraised and the charges incurred, with the fees of the justice and appraisers, to be assessed by the justice, such creatures shall be discharged from the pound.

SEC. 10. If such creatures impounded shall remain in the pound for four days, after the day of such notice being given or posted as aforesaid, the person impounding the same may apply to a justice for an appraisal of the damages, if no appraisal has been made, and for an order for the sale or appraisal of such property.

SEC. 11. The justice after notice and hearing the parties, may order such creatures or so many of them as may be necessary, to be sold at public auction by the person impounding the same, who shall give notice and proceed in such sale in the same manner as sheriffs are required to do in sales upon execution, or he may order them to be appraised in the same manner as damages are required to be appraised, in which case the person impounding shall take them to his own use at the appraised value.

SEC. 12. After payment of the penalty or damages and all costs, the overplus of such sale or appraisal shall be paid to the owner upon request.

SEC. 13. If after four days no owner appears, or if after an appraisal or order of sale any of the creatures impounded shall remain unclaimed, the person impounding may take such creatures out of the pound and proceed with them as strays.

SEC. 14. Every town shall provide and maintain a good and sufficient pound, for impounding and restraining all creatures liable to be impounded; and if any town shall neglect to provide such pound, they shall incur a penalty of thirty dollars for each year they shall be destitute thereof, to be recovered by any person who

will sue for the same to his own use, or may be punished by fine of the same amount. (*See chap. 113 of this compilation, sec. 15, from laws of 1848, chap. 702.*)

SEC. 15. If any person shall rescue any creature from the possession of any person driving or being about to drive the same to the pound, or shall make any pound breach, or in any way directly or indirectly convey or deliver any creature out of any pound without lawful authority, he shall be punished by a fine of twenty dollars or by imprisonment not exceeding six weeks.

SEC. 16. The pound keeper or person impounding, may re-take within six days any creature directly or indirectly conveyed or delivered out of the pound, without lawful authority, and again impound and detain the same until the damages and costs are paid, with the additional cost of such re-taking, or the same is otherwise legally released.

SEC. 17. If any creature so illegally conveyed out of any pound, shall be in any person's enclosure, who shall refuse to deliver the same to the pound keeper or person who first impounded the same, upon demand, such refusal shall be sufficient evidence to convict such person of having released said creatures from the pound.

SEC. 18. The pound keeper, if there is any, otherwise the person impounding, shall cause the creatures impounded to be provided with food and drink suitable for such creatures, and upon neglect shall be liable to the owner for all damages arising therefrom.

SEC. 19. The sum to be allowed for sustenance of creatures impounded, shall be for cattle and horses above one year old, fifteen cents per day, for all other creatures, seven cents per day, each.

SEC. 20. The fees to be paid to the pound keeper, shall be five cents each for every creature impounded, except sheep, which shall be two cents each, including the putting in and letting out, and the same fees in case of creatures re-taken after pound breach.

SEC. 21. The fees to the person impounding, shall be six cents a mile for travel from the place of taking to the pound, and four cents a head for driving, if more than one mile, otherwise two cents a head; for each notice twenty-five cents, and four cents a mile for travel from the pound to the place where such notice shall be given or left; and the same fees in case of creatures re-taken after pound breach.

CHAPTER 144.

OF FLOATING TIMBER AND DAMAGE THEREFROM.

COMPILED FROM

Chapter 138 of the Revised Statutes.

" 1292, Laws of 1852.

SECTION

1. Owners of improved land may detain timber lodged thereon.
2. Owners to advertise such timber.
3. Damages, how appraised.
4. On payment, owner may remove within seven months.
5. Timber forfeited if not so removed, and damages and expenses may be recovered by action.

SECTION

6. Owners of unimproved land may detain timber lodged thereon.
7. Owner of timber liable for damages.
8. Stopping timber and cutting out marks, penalty for.
9. Taking and carrying away floating timber, larceny.

SECTION 1. Every owner of improved land shall have the right to detain all masts, logs or timber of any kind which shall be lodged thereon by the waters of any river or stream, until the damages occasioned to such land thereby, and by the removal thereof and the expenses of advertising the same shall be paid.

SEC. 2. Every such owner shall advertise all such logs and timber in the month of September annually, by posting notices describing the number thereof and the marks thereon, at one of the most public places in the same and two adjoining towns, and causing a like notice to be recorded by the town clerk.

SEC. 3. If the owner or claimant of such logs or timber shall be dissatisfied with the damages and expenses demanded by the owner of such land, the selectmen, and in case a majority of them shall be interested, three justices may on application and after reasonable notice to the other party, assess such damages and expenses.

SEC. 4. On payment or tender of the damages and expenses so demanded or assessed, the owner of such logs and timber shall have the right to remove the same, at any time within seven months after such notice is posted up as aforesaid.

SEC. 5. If such logs or timber shall not be removed within said seven months, they shall be forfeited to the owner of the land, and he may convert the same to his own use, provided they have been duly advertised as aforesaid, and the owner of the land may recover his damages and expenses in an action on the case against the owner of such logs or timber or any other person putting the same into the river. If such damages and expenses have been previously assessed as provided in section third of this chapter,

such assessment shall be conclusive as to the amount of such damages and expenses. (*R. S., sec. 5, as amended by laws of 1852, chap. 1292.*)

SEC. 6. If any logs, masts or spars of any person shall be lodged on the unimproved land of any other person, they may be detained until the damages occasioned thereby, and all costs, are paid.

SEC. 7. If such logs or timber shall be removed by the owner or any other person, without payment or tender of the damages and expenses as aforesaid, he shall be liable to the owner of such land therefor and for costs, in an action to be commenced within one year, and not after.

SEC. 8. If any person shall wrongfully stop any masts, spars or logs of any other person, or prevent them from floating down any river or stream, or if any person shall wilfully and fraudulently cut out or destroy the mark on such logs or timber, he shall be punished by imprisonment not more than thirty days, or by fine not exceeding twenty-five dollars.

SEC. 9. If any person shall wilfully and fraudulently take and carry away or otherwise convert to his own use, either personally or by others in his employment and under his control, any log or timber of another, being in any river or stream or on the banks or meadows adjoining the same, he shall be adjudged guilty of larceny and punished by imprisonment not less than thirty days nor more than one year, or by confinement to hard labor not exceeding two years.

CHAPTER 145.

OF STRAYS AND LOST GOODS.

IDENTICAL WITH

Chapter 139 of the Revised Statutes.

SECTION

1. Notice to be given to town clerk.
2. Town clerk to record such notice.
3. Finder to post notices.
4. Appraisers to be appointed.
5. Appraisers' oath and return.
6. Finder to keep property not claimed for a year, when.
7. Owner entitled to property on payment of expenses.

SECTION

8. Expenses adjusted by a justice.
9. Owner liable for expense if stray dies.
10. Penalty for neglect of finder.
11. Penalty for neglect of town clerk.
12. Strays not to be taken up, when.
13. Fees of finder, justice and clerk.

SECTION 1. The person finding any money or goods, or finding and taking up any stray beast, the owner of which is unknown,

shall give to the town clerk a notice in writing describing the money, goods or beast, within six days after so finding or taking up the same.

SEC. 2. The town clerk shall record such notice in a book to be by him kept for that purpose.

SEC. 3. The finder of such property shall within six days after finding or taking up the same, post up a notice describing the money, goods or beast, at two public places in the town where the same was found, and if the value thereof exceed five dollars, at some public place in each of two adjoining towns, or cause a copy of such notice to be published three weeks successively in some newspaper circulating in such towns.

SEC. 4. If no owner shall appear within one month after notice given as aforesaid, the finder shall apply to a justice, who shall appoint three persons to appraise such property, unless the same be money.

SEC. 5. The appraisers shall be sworn by the justice to the faithful discharge of their duty, shall appraise the property and make a return of their appraisal to the justice.

SEC. 6. If the owner of such property or beast shall not appear, and claim the same within one year after notice given to the town clerk, the person finding or taking up the same may keep the property for his own use, upon paying to the town treasurer the residue of such money, or of the appraised value of such property or beast, after deducting the fees and expenses incurred.

SEC. 7. The owner within one year, upon paying or tendering to the finder a reasonable sum for the keeping, charges and fees incurred, shall be entitled to his property.

SEC. 8. Any justice shall adjust and determine the amount of the fees and charges of the finder, clerk, appraisers and justice, and the expense of keeping, on application of any person interested.

SEC. 9. The owner of any stray beast shall be liable to the person taking up the same, for such fees, charges and expenses, in case the beast should die without the fault or negligence of the finder.

SEC. 10. If any person finding any property or taking up any stray beast, shall neglect to give notice to the town clerk or to post up notices as before prescribed, or to cause such appraisal to be made, he shall receive nothing for his services or expenses, and shall forfeit a sum equal to double the value of the property found or beast taken up.

SEC. 11. If any town clerk shall omit to record any notice as aforesaid, or if any person shall pull down or destroy any notice so posted, till the purpose thereof is answered, he shall forfeit the sum of thirty dollars.

SEC. 12. No beast, except horses and mules, shall be taken up as a stray, from the first day of April to the first day of November in any year, unless the same shall be found doing damage in some enclosure.

SEC. 13. The fees for notifying the clerk shall be twenty-five cents, for each advertisement twenty-five cents, for recording the notice ten cents, for appointing appraisers twenty-five cents, for receiving and recording the appraisal twenty-five cents, for adjusting the charges and expenses twenty-five cents.

CHAPTER 146.

OF THE SURVEY OF THE COAST OF NEW HAMPSHIRE.

IDENTICAL WITH
Chapter 337, Laws of 1846.

SECTION

1. Persons in service of the United States may enter upon lands in this State to erect stations, &c.
2. Question of damages, how settled.

SECTION

3. Persons entering may make tender.
4. Penalty for injuring or removing monuments, &c.

SECTION 1. Any person employed under and by virtue of an act of the congress of the United States, passed the 10th day of February, one thousand eight hundred and seven, and the supplements thereto, may enter upon lands within this State for the purpose of exploring, surveying, triangulating, levelling, or doing any other act which may be necessary to effect the objects of said acts, and may erect any works, buildings, stations or appendages requisite for that purpose, doing no unnecessary damage thereby.

SEC. 2. If the parties interested cannot agree upon the amount to be paid for the damages caused by doing any of the acts aforesaid, either of them may petition the court of common pleas for the county in which the land entered upon is situated, for an assessment of said damages, who shall refer the same to the road commissioners for such county, who shall hear the parties and make report, as in the case of assessing damages for land taken for highways, upon which the court shall render judgment as in other cases: *provided*, that either of the parties dissatisfied with the amount of damages so assessed may appeal to the court of common pleas next to be holden in said county and not afterwards, and thereupon said court shall assess the damages of such party by a jury.

SEC. 3. The person so entering upon land as aforesaid may tender to the party injured sufficient amends therefor; and if the damages finally assessed shall not exceed the amount so tendered, the person so entering shall recover his costs, and in all cases the party prevailing shall recover his costs.

SEC. 4. If any person shall wilfully deface, injure or remove

any signals, monuments, buildings or any appendage thereto, used or constructed under and by virtue of the acts of congress aforesaid, he shall forfeit the sum of fifty dollars for each offence, to be recovered by indictment to the use of the party prosecuting, and shall also be liable for all damages sustained by the United States of America, to be recovered in an action on the case in any court of competent jurisdiction.

TITLE XVII.

OF CORPORATIONS.

- CHAPTER 147. General provisions respecting corporations.
- CHAPTER 148. Of banks and savings banks.
- CHAPTER 149. Of manufacturing corporations.
- CHAPTER 150. Of railroad corporations.
- CHAPTER 151. Of proprietors of common lands.
- CHAPTER 152. Of voluntary associations.
- CHAPTER 153. Of religious societies.
- CHAPTER 154. Of fire insurance companies.
- CHAPTER 155. Of life insurance.

CHAPTER 147.

GENERAL PROVISIONS RESPECTING CORPORATIONS.

COMPILED FROM
 Chapter 146 of the Revised Statutes.

"	34,	Laws of 1843.
"	146,	" " 1844.
"	249,	" " 1845.
"	321,	" " 1846.
"	322,	" " 1846.
"	324,	" " 1846.
"	487,	" " 1847.
"	860,	" " 1849.

PRIVATE LIABILITY OF STOCKHOLDERS.
SECTION

1. Liabilities of corporations and the stockholders and officers thereof.
 1. Stockholders to be jointly and severally liable till all the capital stock is paid in :
 2. Upon a reduction of the capital stock, for all debts contracted before such reduction :
 3. Corporations to give notice to the governor of all assessments, debts, &c. :
 4. Directors to be liable for all dividends :
 5. No loans to stockholders :
 6. Debts not to exceed one half of the stock ; amount of bills of banks not to exceed capital stock :
 7. Officers to be liable for false returns.
2. Administrators, guardians, their rights and liabilities.

ACTIONS BY AND AGAINST STOCKHOLDERS.

3. Actions, how brought.
4. Demand of payment to be made.
5. Form of declaration.
6. Stockholders to have contribution.
7. Modes of proceedings against corporation officers, &c.

LISTS OF STOCKHOLDERS TO BE RETURNED TO TOWN CLERK.

8. Clerks of corporations to deliver to town clerks list of stockholders.
9. Town clerk to record.
10. Such record prima facie evidence ; town clerk's fees.
11. Penalty for neglect to make return.
12. " " wilful neglect.
13. Places of business of railroad corporations and bridges defined.

PROXY VOTING.

14. Voting by proxy, authority to be in writing.

SECTION

15. Voting by proxy limited, &c.
16. No person to vote unless assessments are paid.
17. Corporations may establish by-laws in relation to representing stock, &c.
18. Penalty for violating provisions of sections 15, 16, 20 and 21 of this chapter.
19. Penalty for fraudulent voting, and voting by executor, guardian and pledged stock.

SALE OF SHARES FOR LESS THAN PAR PROHIBITED.

20. Railroad corporations not to sell stock less than the par value.
21. Sale of stock by owners not to be restrained.
22. Any number of shares may be included in one certificate.

OFFICERS AND RECORDS OF CORPORATIONS.

23. Clerk and cashier to be inhabitants of the State, and to be sworn.
24. Number of directors fixed ; cashier not to be director.
25. Records to be open to inspection.
26. Copies of records to be furnished.
27. Fees of clerk for copies.
28. Bank debts and credits examined.
29. Penalty for neglect to furnish copy.
30. " on officers for wilful violations of law.

ANNUAL MEETINGS OF CORPORATIONS.

31. Loss of meeting, how supplied.
32. Mode of calling new meeting.
33. Annual meeting may be changed.

AMENDMENT, EXPIRATION AND REPEAL OF CHARTERS.

34. Charter expiring, three years allowed to wind up business.
35. Acts of incorporation to become void, unless accepted within three years.
36. Legislature may alter, amend or repeal charters.

PRIVATE LIABILITY OF STOCKHOLDERS.

SECTION 1. All corporations, having for their object a dividend of profits among their stockholders, hereafter incorporated, or whose charters are subject by law to alteration, amendment or

repeal, shall be governed by the provisions and subject to the liabilities in this act (*Sec. 1, 7, 14 and 35 of this chap., and sec. 61 of chap. 148 of this compilation*) contained; and the stockholders and officers thereof shall be personally liable for the debts and civil liabilities of such corporations in the following cases, and not otherwise:

1. They shall jointly and severally be liable for all debts and contracts of such corporations, until the whole amount of the capital, fixed and limited by such corporation, shall have been paid in, and a certificate thereof shall have been made and recorded by the clerk of the town where such corporation has its place of business, or is situated. And no note or obligation given by any stockholder, whether secured by pledge or otherwise, shall be considered as payment of any part of the capital stock:

2. If, upon the reduction of the capital stock of any corporation, any part thereof shall be withdrawn and refunded to the stockholders, before the payment of all the debts of the corporation contracted previously to the recording of the copy of a vote for that purpose in the office of the clerk of the town in which said corporation is located or has its place of business, such of the stockholders as shall actually vote for or receive their share of the capital stock so withdrawn or refunded, shall be jointly and severally liable for the payment of said last mentioned debts:

3. Every such company shall give notice annually, in the month of May, to the governor, of the amount of all the assessments voted by the company and actually paid in; the amount of all debts due to and from said corporation; and the value of all the property and assets of said corporation, so far as the same can be ascertained, as existing on the first day of said May; which notice shall be signed by the president and a majority of the directors. And if any such corporations shall fail so to do, all the stockholders of said corporation shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be contracted before and until such notice shall be given:

4. If the directors of any such corporation shall declare and pay any dividend when the corporation is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office; *provided* that the amount for which they shall be so liable shall not exceed the amount of such dividend; and that if any of the directors shall be absent at the time of making such dividend, or shall object thereto, and file their objection in writing with the clerk of the corporation, who shall record the same, they shall be exempted from the said liability.

5. No loan of money shall be made by any such corporation, other than banks, to stockholders therein; and if any such loan shall be made to a stockholder, the officers who shall make it, or

who shall assent thereto, shall be jointly and severally liable to the extent of such loan and interest, for all the debts of the corporation contracted before the payment of the sum so loaned.

6. The whole amount of the debts of any corporation aforesaid, other than banks, shall not exceed the amount of one half of its stock actually paid in, and of its other property and assets; and the whole amount of bills in circulation of any banking corporation shall not at any one time exceed the capital stock of such bank actually paid in; and in case of any excess, the directors under whose administration it shall happen shall be jointly and severally liable to the extent of such excess, for all debts of the corporation then existing, and for all that shall be contracted so long as they shall respectively continue in office, and until the debts and circulation of said corporations respectively shall be reduced to the amount herein prescribed. *Provided* that any of the directors who shall be absent at the time of the contracting of any debt contrary to the foregoing provisions, or who shall object thereto, may exempt themselves from said liability by forthwith giving notice of the fact to the stockholders, at a meeting which they may call for that purpose.

7. If any certificate, return or notice, made or given in pursuance of the provisions of this section, shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the corporation contracted while they were in office, or stockholders therein. (*Laws of 1846, chap. 321, sec. 2.*)

SEC. 2. No person holding stock as executor, administrator, guardian or trustee as aforesaid, and no person holding such stock as collateral security, shall be personally subject to any liabilities as a stockholder of such corporation; but the person pledging such stock shall be liable as a stockholder, and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in his hands in like manner, to the same extent as the deceased testator or intestate, or the ward or the person interested in such trust fund would have been if he had been living and competent to act, and had held the same stock in his own name. (*R. S., chap. 146, sec. 22.*)

ACTIONS BY AND AGAINST STOCKHOLDERS.

SEC. 3. Proper actions of debt or assumpsit, for the collection of such debts or liabilities, may be commenced and prosecuted against any one or more of said stockholders, and such actions shall not be abated for the reason that the other stockholders are not joined as defendants in such suits. (*R. S., chap. 146, sec. 2.*)

SEC. 4. No suit against any stockholder for the collection of any such debt or liability shall be commenced until after a legal demand of payment thereof shall have been made upon the company; and upon such demand being made, if the officers or

stockholders of such company shall discharge such debt or liability, or expose unincumbered personal property of such company, liable to attachment sufficient to satisfy such debt or liability and costs, so that the same may be attached in a suit against such company for the security of such debt or liability, then no suit shall be sustained thereon against the stockholders: and whenever the officers or stockholders of any such company upon which such demand shall have been made, shall not satisfy such debt or liability or expose such property as aforesaid, it shall be the duty of such officers forthwith to call a meeting of the stockholders of such company, and such company when so met shall provide means for the payment of such debt or liability, either by assessments upon the stockholders or otherwise, within sixty days from the time when such demand was made; and if such debt or liability shall not be discharged within said sixty days, a suit may be sustained against the stockholders as is provided in the preceding section; and if the officer or officers whose duty it may be to call such meeting, shall unreasonably neglect to call the same, they shall severally forfeit the sum of one thousand dollars, to be recovered in an action of debt by any person injured thereby. (*R. S., sec. 3.*)

SEC. 5. When any action shall be commenced against the stockholders of any bank, for recovering the amount of any bank bills issued by such bank, a declaration may be so framed as to embrace in the same count any number of such bills; and averments that such bills issued from and were put in circulation by such bank, and that the plaintiff was, prior to and at the time of the demands of payment above required, and still is the holder of the same, and general statement of the denominations of such bills, giving the number of bills of each denomination, shall be a sufficient setting forth in the declaration of the liability of the bank to pay or redeem such bills, and a sufficient description of the bills; and one suit only shall be commenced by any person against any stockholder, for recovering the amount of all the bills holden by him at the time of commencing any such suit; and the stockholders so sued may be described in the writ or declaration as stockholders of such bank, and by their names and places of residence, which shall be sufficient without any further description or addition whatever. (*R. S., sec. 4.*)

SEC. 6. When any stockholder of such company shall have voluntarily paid any such debt or liability, after such demands, or when any such stockholder shall have been compelled by suit to pay any such debt or liability out of his own private property, he may have contribution from the other stockholders of such company for all payments so made by him, either by action for money paid, laid out and expended, or by a bill in equity at his election. (*R. S., sec. 5.*)

SEC. 7. The process and modes of proceeding against corporations, their officers and stockholders, who may become liable for their debts and civil liabilities, shall be the same as are provided

by chapters one hundred and forty-one and one hundred and forty-six of the revised statutes, [chapters 147 and 149 of this compilation,] and the remedies of the officers and stockholders who have incurred such liabilities against such corporation, their officers and stockholders, shall be the same as are provided in said chapters in like cases. (*Laws of 1846, chap. 321, sec. 4.*)

LIST OF STOCKHOLDERS TO BE RETURNED TO TOWN CLERK.

SEC. 8. Every corporation hereafter created, whose object is a dividend of profits, within sixty days after it shall be organized and ready to proceed to transact the business for which it was incorporated; and every corporation heretofore incorporated, whose charter is subject to alteration, amendment or repeal, within sixty days from the passage of this act, (July 10, 1846,) and each as often as once in each year thereafter, shall cause its clerk to deliver to the clerk of the town in which the company has its principal place of business, or left at his dwelling house, a list of the names and places of residence of all the stockholders; certified under oath by its cashier, clerk, or one of its directors, to be a full and correct list thereof. (*Laws of 1846, chap. 322, sec. 1.*)

SEC. 9. It shall be the duty of such town clerk to record and keep on file such list; and any person whose name shall be returned on any such list by any clerk of such corporation, shall be taken and deemed a stockholder in such corporation until his name shall be omitted or stricken from said list by the clerk of said corporation in a subsequent list; *provided* that any stockholder in any such corporation who shall sell and assign all his stock in the same, may immediately notify such town clerk in writing of the time when he sold and assigned such stock, and the names and places of residence of the persons to whom he sold; and in all such cases the stockholder so selling his stock shall be exonerated from all debts and liabilities of said corporation contracted after such sale and notice; and the person purchasing such stock shall be liable for such debts and liabilities, contracted after such purchase and notice, in the same way and manner as the person selling such stock would have been if he had not sold. (*Laws of 1846, chap. 322, sec. 2.*)

SEC. 10. The record made as aforesaid of any such list or notice, or a copy thereof, certified by the town clerk, may be used as prima facie evidence in any action brought by the creditors of any such company against its stockholders, agreeably to the provisions of this act. (*Sec. 8, 9, 10, 11 and 12 of this chapter.*) And the said town clerk shall be paid for recording such list and notices by the person or corporation directing the same to be done, such fees as he is entitled to for recording mortgages of personal property. (*Laws of 1846, chap. 322, sec. 3.*)

SEC. 11. If the clerk of any corporation shall neglect to make return of such lists as are provided for in this act, [the eighth

section of this chapter] he shall forfeit for every such neglect fifty dollars to any person who will sue for the same. (*Laws of 1846, chap. 322, sec. 4.*)

SEC. 12. If any clerk of any corporation shall wilfully omit or refuse to return said list, with an intent to delay or defraud any creditor of such corporation, he shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding three years, or by both of said punishments. (*Laws of 1846, chap. 322, sec. 5.*)

SEC. 13. For the purpose of filing and recording the lists, and recording the transfers and assignments mentioned in the sixth and seventh sections of chapter 146, R. S., [the eighth and ninth sections of this chapter] the place of business of any bridge corporation shall be taken to be in the town in which its toll house is located, if such toll house be located in this State; otherwise in the town in this State in which the bridge or such part thereof as lies in this State is located. (*Laws of 1843, chap. 34, sec. 10.*)

VOTING AND PROXY VOTING.

SEC. 14. Every stockholder in any corporation having for its object a dividend of profits, may give one vote at any meeting thereof, in person or by proxy, for every share he shall hold in such corporation, provided that no one shall be entitled to vote in any case for any shares beyond one eighth of the whole number of shares into which the capital stock may be divided. Authority to act as proxy shall be in writing, signed by the proprietor, and delivered or a copy thereof, to the clerk of such corporation. (*Laws of 1846, chap. 321, sec. 5.*)

SEC. 15. No person shall at any meeting of such corporation, vote by proxy representing more than one fiftieth of the whole number of shares into which the capital stock may be divided, and no proxy shall confer the right to vote at more than one meeting, which shall be named in such proxy, nor shall any person directly or indirectly ask for or solicit of any stockholder in any corporation his proxy for any other person to vote upon at any meeting thereof. (*Laws of 1849, chap. 860, sec. 3.*)

SEC. 16. No person shall vote on any share or shares in any corporation until all assessments duly ordered and payable on such share or shares have been fully paid: *provided* such assessment has been ordered four months prior to the time at which such vote is offered, and such person has been notified in writing, by the clerk, within ten days after the ordering of such assessment. (*Laws of 1849, chap. 860, sec. 4.*)

SEC. 17. Any corporation in this State may, at any annual or other meeting, duly holden for that purpose, make and establish by-laws, providing for the manner of representing stock in such corporation, provided that no stockholder in such corporation shall be permitted to represent the stock of another member of the

same corporation, nor any person in any case to represent the stock of more than one member of such corporation, nor to a greater amount than is provided for [in sections fourteen and fifteen of this chapter.*] (*Laws of 1845, chap. 249, sec. 1.*)

SEC. 18. Any person or corporation who shall violate any of the provisions of this act (sections fifteen, sixteen, twenty and twenty-one of this chapter) shall be punished by fine not exceeding one thousand dollars. (*Laws of 1849, chap. 860, sec. 5.*)

SEC. 19. If any person shall fraudulently vote upon any share of which he is not the bona fide and absolute owner, or shall fraudulently procure or receive the transfer of any share for the purpose of voting thereon, he shall be punished by imprisonment not exceeding one year, or by fine not less than five hundred dollars, or by both; but any person holding stock in any corporation as executor, administrator, guardian or trustee, shall represent the shares or stock in his hands at all meetings of the corporation; and may vote as stockholder, and any person who shall have pledged his stock as collateral security, may represent the same at such meetings, and may vote as a stockholder. (*R. S., chap. 146, sec. 21.*)

SALE OF SHARES FOR LESS THAN PAR VALUE PROHIBITED.

SEC. 20. No railroad or other corporation in this State, nor any railroad or other corporation which shall hereafter be created by this State, shall sell or cause to be sold by its agents or officers, or any other person, any portion of its capital stock, at a price less than the par value thereof: *provided, however*, that this section shall not be so construed as to prevent any such corporation, which have organized under their act of incorporation, from selling at auction any share or shares in the stock of such corporation for neglect of the owners thereof to pay the assessments made thereon. (*Laws of 1849, chap. 860, sec. 1.*)

SEC. 21. The free sale of shares in the stock of any corporation in this State, by the owners thereof, shall not be in any way or manner restricted by the by-laws of such corporation, and all such by-laws heretofore or hereafter made, shall be deemed and taken to be absolutely void. (*Laws of 1849, chap. 860, sec. 2.*)

SEC. 22. It shall be lawful for any corporation, in issuing certificates or evidences of their stock to the proprietors entitled thereto, to insert any number of shares in one certificate, and the same may be so transferred, anything in the act of incorporation to the contrary notwithstanding. (*Laws of 1846, chap. 324.*)

* *Laws of 1845, chap. 249*, provides that corporations may make by-laws providing the manner of representing stock as is provided by chap. 146, laws of 1844, but this law of 1844 seems to be repealed by chap. 321, laws of 1846; we have therefore retained in this compilation the law of 1845, chap. 249, substituting the words "provided for in sections 14 and 15 of this chapter." instead of "the act to which this is in addition."

OFFICERS AND RECORDS OF CORPORATIONS.

SEC. 23. No person shall be eligible to the office of clerk or cashier of any corporation, unless he is an inhabitant of this State, and every such clerk or cashier shall be sworn to the faithful discharge of his duties. (*R. S., sec. 13.*)

SEC. 24. The directors of any banking or railroad company shall not be less than five in number, and no cashier of any bank shall at the same time be a director thereof. (*R. S., sec. 14.*)

SEC. 25. The books of records of the votes and proceedings of any corporation in this State, including the books of the credits and debts of any bank and of the proceedings of the directors thereof, and also all evidences of debts due such bank, shall be subject to the inspection of every member or stockholder. (*R. S., sec. 15.*)

SEC. 26. The clerk of any corporation, when required by any member or stockholder, or any creditor thereof whose demand is due, on payment or tender of the fees therefor, shall furnish a certified copy of any vote or record of such corporation which may be demanded. (*R. S., sec. 16.*)

SEC. 27. The fees for all copies furnished as aforesaid, shall be the same as are allowed to clerks of courts for making and certifying copies of records. (*R. S., sec. 17.*)

SEC. 28. The stockholders of any bank, at any legal meeting for that purpose, may give to any person the right of inspecting the books of the debts and credits, or of the proceedings of the directors of such bank, and of demanding copies thereof. (*R. S., sec. 18.*)

SEC. 29. If any clerk of any corporation after a demand of a copy of any record aforesaid, and the payment or tender of the fees therefor, shall neglect or refuse for the space of seven days to furnish such copy, he shall forfeit for such offence a sum not exceeding one thousand dollars to any member, stockholder or creditor who shall have demanded such copy. (*R. S., sec. 19.*)

SEC. 30. Any president, director or cashier of any bank, or any director, trustee or agent of any other corporation who shall wilfully or fraudulently violate any of the provisions of this chapter or of either of the preceding chapters of this title, (title 17 of the revised statutes) shall upon conviction thereof be punished by confinement to hard labor not exceeding five years; or by fine not exceeding five thousand dollars, for each and every violation thereof, one half to the use of the prosecutor and the remainder to the use of the State. (*R. S., sec. 25.*)

ANNUAL MEETINGS.

SEC. 31. If any corporation other than a town shall fail to hold its annual meeting, or if no mode of calling a special meeting of such body politic or corporate is prescribed, the owner or

owners of one twentieth part of the stock or property thereof, may apply in writing to any justice of the peace, which application shall state the time, place and purposes of such meeting, to call a meeting of the members of said corporation. (*R. S., sec. 11.*)

SEC. 32. Such justice shall thereupon issue his warrant directed to any one of said applicants, requiring him to warn a meeting of such corporation, to meet at the time and place and for the purposes mentioned in such application, by publishing a copy of such application and warrant fourteen days in the same manner as is provided for warning the annual meeting of said corporation, and such meeting and all business done thereat, shall be as valid as if held and done according to the charter and by-laws of such body corporate. (*R. S., sec. 12.*)

SEC. 33. Any corporation may, at any annual meeting thereof, alter the time of holding its annual meeting. (*R. S., sec. 24.*)

AMENDMENT, REPEAL AND EXPIRATION OF CHARTERS.

SEC. 34. Any corporation whose power may expire by express limitation or otherwise, on any day, may continue to be a body corporate for the space of three years thereafter, for the purpose of prosecuting and defending suits, of receiving, holding, conveying or transferring any estate real or personal, and of gradually closing and settling the concerns and dividing the capital stock of such body corporate, but not for continuing the business for which such corporation was established. (*R. S., sec. 23.*)

SEC. 35. Any act of incorporation for manufacturing or any other corporation having for its object dividends of profits among its stockholders, granted, or that shall be granted by this or any future legislature, shall become null and taken to be wholly void at the expiration of three years from and after the passage of such act, unless the grantees or corporators in the act named, their successors or assigns, shall have within said time accepted such act or charter, organized as a company under it, and entered in good faith upon the proper business of the corporation. (*Laws of 1846, chap. 321, sec. 7.*)

SEC. 36. The legislature may at any time alter, amend or repeal the charter of any corporation, whenever in their opinion the public good shall require such amendment, alteration or repeal; but such amendment, alteration or repeal shall not take away or impair any remedy given against such corporation, its members or officers, for any liability which shall have been previously incurred. (*R. S., sec. 26, and laws of 1847, chap. 487, sec. 2.*)

CHAPTER 148.

OF BANKS AND SAVINGS BANKS.

COMPILED FROM

Chapter 140 of the Revised Statutes.

"	34,	Laws of 1843.
"	37,	" " 1843.
"	87,	" " 1844.
"	99,	" " 1844.
"	250,	" " 1845.
"	251,	" " 1845.
"	252,	" " 1845.
"	323,	" " 1846.
"	379,	" " 1846.
"	500,	" " 1847.
"	737,	" " 1848.
"	967,	" " 1850.
"	1127,	" " 1851.
"	1313,	" " 1852.

BANKING ASSOCIATIONS UNLAWFUL UNLESS AUTHORIZED BY THE LEGISLATURE.

SECTION

1. Unchartered banks unlawful.
2. Penalty for being a member thereof.
3. Penalty for being concerned therein.
4. All securities taken to be void.
5. Bills, &c., issued to be void except against signer.
6. Penalty for passing such bills.

BILLS HOW MADE PAYABLE, AND WHAT DENOMINATIONS MAY BE CIRCULATED BY CHARTERED BANKS.

7. Bills to be made payable in specie on demand.
8. Penalty for passing bills otherwise payable.
9. Penalty for neglect to pay specie.
10. Penalty for passing bills under one dollar.
11. Penalty on bank for issuing bills of certain denominations.
12. Penalty for bringing such bills into the State.
13. Bank to pay its altered bills.
14. What constitutes the capital stock of banks.

SECTION

15. Circulation of banks limited.
16. Banks to accept the two preceding sections as a part of their charter.
17. Capital limited to amount paid in.

SUSPENDED BANKS AND PROCEEDINGS.

18. Suspended banks not to pay dividends.
19. Debtors of suspended banks may suspend also, unless.
20. Bank suspended to be examined.
21. Injunction to be issued forthwith.
22. Injunction, on hearing how modified.
23. Charter, proceedings to forfeit.
24. Bank aggrieved by injunction, may petition to dissolve.
25. Assignees of bank, when appointed.
26. Powers and duties of assignees.
27. Court may make orders to carry assignment into effect.
28. Assignees to give bond.
29. Suits on bond, how instituted.
30. Assets of bank, how distributed.
31. Creditors of bank may be restrained from proceeding.
32. Compensation of assignees.
33. Penalty on officers of bank for false statements.

SECTION

- 34. Penalty for embezzlement.
- 35. Penalty for fraudulent payments.

CASHIERS OF BANKS.

- 36. Statement of condition of bank made.
- 37. Such statement to be under oath.
- 38. Penalty for neglect to make returns.
- 39. Secretary of state to publish abstracts of returns.
- 40. Cashier shall not be a borrower.
- 41. Cashier to give notice to assessors.
- 42. Penalty in case of neglect.

BANK COMMISSIONERS.

- 43. Bank commissioners to be appointed.
- 44. Commissioners removable at pleasure.
- 45. Duties of commissioners.
- 46. Clerks' duty to forward report to attorney general and county solicitors.
- 47. Compensation of commissioners.
- 48. May examine officers of banks on oath.
- 49. Commissioners to report annually.

DIRECTORS OF BANKS.

- 50. Indebtedness of directors limited.
- 51. Indemnities by directors, when void.
- 52. Directors to take no fee for loan.

PROXY PROSECUTIONS AND FORFEITURES.

SECTION

- 53. Voting by proxy regulated.
- 54. Prosecutions, how carried on.
- 55. Forfeiture of charter, proceedings.
- 56. Charters null and void unless organized prior to June 1st, 1846.

CLOSING OF BANKS.

- 57. Banking corporations may close up their concerns and divide their capital, when.
- 58. Stockholders individually liable.
- 59. Bills and liabilities payable in specie at the bank or by an agent.
- 60. To have contribution.

PRIVATE LIABILITY OF STOCKHOLDERS IN BANKS.

- 61. Stockholders individually liable for the amount of their stock.

SAVINGS BANKS.

- 62. Savings banks to be examined.
- 63. Powers and duties of commissioners.
- 64. Assignees may be appointed.
- 65. Compensation of commissioners for examining savings banks.
- 66. Treasurers of savings banks to give notice to assessors.
- 67. Penalty for neglect to notify assessors.

BANKING ASSOCIATIONS UNLAWFUL UNLESS AUTHORIZED BY THE LEGISLATURE.

SECTION 1. Every company or association of persons formed for banking purposes, without an act of the legislature authorizing the same, shall be deemed unlawful.

SEC. 2. If any person shall subscribe to or become a member of such company or association, he shall for such offence be punished by fine not exceeding one thousand dollars, nor less than four hundred dollars.

SEC. 3. If any person shall be concerned in issuing notes or bank bills, receiving deposits, loaning, issuing or signing any such notes or bills, or in any way aiding in carrying on the business of such company or association, he shall be punished by fine of one hundred dollars.

SEC. 4. All notes or securities for the payment of money, or the delivery of property, made, given, endorsed or transferred to, or received by any such company or association for money or bills loaned or discounts made, or made, given, or transferred to or

received by any person for the benefit of such company or association, shall be null and void.

SEC. 5. All bills, notes, checks, drafts or obligations whatsoever payable to bearer or order, except such as may be issued by an incorporated bank, issued or passed with the intent that the same shall be used as currency, and which shall bear the impression of types, plates or printing, are void, and no action shall be sustained thereon, except against the original signer thereof.

SEC. 6. If any person shall issue or pass any such note, bill, check, draft or obligation with the intent that the same shall be circulated as currency, he shall be fined for each offence twenty dollars.

BILLS HOW MADE PAYABLE AND WHAT DENOMINATIONS MAY BE
CIRCULATED.

SEC. 7. If any incorporated banking company or any person in their behalf shall put in circulation, or issue with intent to put in circulation as currency, any bank bill, note or obligation, the payment of which is subject to any condition whatever, or payable at any other place than the bank from which it issued, or which shall not be made payable to the bearer in specie and on demand, such company or person for every such offence shall be fined one hundred dollars.

SEC. 8. If any person shall knowingly pass any bank bill, note or obligation of the description contained in the preceding section, issued by any bank, excepting to the bank from which the same issued, he shall be fined for such offence five dollars.

SEC. 9. If any banking company shall neglect or refuse to pay in specie, on demand, any bank bill, note or obligation by them issued, upon presentment and demand of payment thereof at said bank, the holder of such bill, note or obligation may sue for and recover the amount thereof, with interest thereon at the rate of two per centum for each month, to be computed from the time of such demand, and also treble costs of suit.

SEC. 10. If any person shall pass or offer to pass any note or bill of a less denomination than one dollar, issued by any bank, except to the bank from which the same was issued, he shall forfeit for each offence five dollars, to be recovered by any person who will sue therefor within six months from the commission of the offence.

SEC. 11. No bank in this State shall issue, or put in circulation or pass directly or indirectly any bank bill or note of a less denomination than one dollar, or of any denomination between one and two, two and three, three and five, five and ten or ten and twenty dollars; and if any bank in this State shall violate the foregoing provisions of this section or any part thereof, such bank shall forfeit for such offence the sum of five hundred dollars, to be recovered by indictment, and shall be liable to forfeiture of its charter.

SEC. 12. If any person shall bring into this State any bill or note issued by any bank not established in this State, or by any person, of a less denomination than one dollar, or of any denomination between one and two, two and three, three and five, five and ten or ten and twenty dollars, with intent to put such bill or note in circulation in this State, or to cause or permit the same to be so put in circulation, or to pass the same, or if any person shall pass or offer to pass any such bill or note in this State directly or indirectly, such person so offending shall be punished therefor by fine not less than one hundred or more than five hundred dollars.

SEC. 13. The several banking corporations shall be liable to pay to any holder, the original amount of any note or bill of such bank, altered in the course of its circulation to a larger amount, notwithstanding such alteration.

SEC. 14. The capital stock of all banking corporations in this State shall be taken and held to be the amount of capital actually paid in, in cash; and no notes of stockholders, given to said bank, shall be deemed or held to constitute any part of its capital stock. (*Laws of 1846, chap. 323, sec. 1.*)

SEC. 15. No bank shall have in circulation its bills to a greater amount than its capital stock actually paid in in manner aforesaid, deducting therefrom the amount of loans made by such bank upon the pledge of its own stock, not exceeding the amount authorized by its charter. (*Laws of 1846, chap. 323, sec. 2, and R. S., chap. 140, sec. 14.*)

SEC. 16. All banking corporations to which the provisions of this act shall apply (the two preceding sections) shall, within sixty days from its passage (the tenth day of July eighteen hundred and forty-six) accept the same as a part of their charter and file with the secretary of state evidence thereof; and on failure so to do, it shall be the duty of the attorney general, or prosecuting officer of the government, to institute prosecutions against all such banks for violation of their charters. (*Laws of 1846, chap. 323, sec. 3.*)

SEC. 17. The capital stock of each and every bank in this State, chartered previous to the June session of the legislature, (A. D. eighteen hundred and fifty-one) shall be fixed and limited to the amount subscribed and actually paid in under their respective charters on the first day of October, A. D. eighteen hundred and fifty-one, any law, or the provisions of any charter, to the contrary notwithstanding. (*Laws of 1851, chap. 1127.*)

SUSPENDED BANKS AND PROCEEDINGS.

SEC. 18. No bank which shall suspend specie payments, shall during such suspension pay any dividend of interest or profits to any stockholder, and any violation of this or the preceding section shall be a forfeiture of the charter of the bank guilty of such violation, and any director or other officer of any bank consenting to

such violation, shall be punished by confinement to hard labor not exceeding five years. (*R. S., sec. 15.*)

SEC. 19. Whenever any bank shall suspend specie payments, any person indebted to such bank may suspend the payment of his debt until such bank shall resume specie payments, unless said bank will receive its own bills or other current bank bills in payment thereof. (*R. S., sec. 16.*)

SEC. 20. If any bank shall suspend specie payments, such bank shall thereby forfeit its charter, and the governor shall direct two or more of the bank commissioners to make an immediate examination into the condition of such bank, especially as to its available funds, its liabilities, the amount of the liabilities of each stockholder, the amount of bills in circulation, whether since such suspension any loan or dividend has been made, and if so, the amount thereof, the amount of specie and funds on hand at the time of such suspension and at the time of such examination, and the disposition thereof, if any, that has been made, and such other facts as may be necessary to enable the public to judge of the solvency of such bank; and said commissioners shall make a full report thereof, and cause the same to be published in all the newspapers authorized to publish the laws of this State. (*R. S., sec. 26.*)

SEC. 21. If such commissioners, upon examination into the affairs of any bank or for other good cause, shall deem it unsafe for the public interest that such bank shall continue to issue or circulate its bills or notes, or if any bank shall neglect or refuse to submit to any examination by them or either of them, or to furnish the necessary facilities for such examination, they shall represent the same in writing signed by a majority of them, to one of the justices of the superior court of judicature; and such justice shall forthwith issue an injunction to the president, directors and company of said bank, prohibiting them from issuing any bills or transacting any business until such injunction shall be dissolved, and said commissioners shall cause the same to be served according to law. (*R. S., sec. 27.*)

SEC. 22. After due notice and a full hearing of the said corporation upon the matters aforesaid, said justice may dissolve, modify or make perpetual said injunction, and may make such further orders and decrees to suspend, restrain or prohibit the further prosecution of the business of such corporation as may be necessary, according to the course of proceedings in equity. (*R. S., sec. 28.*)

SEC. 23. Said commissioners, whenever they shall deem it necessary to protect the public against the proceedings of any bank corporation, shall cause the attorney general by instructions in writing to that effect, to file an information against such corporation for the purpose of vacating its charter, at the next term of the court of common pleas to be holden in and for the county in which such bank is located; and said court may order due notice to be given to such corporation, to appear and show cause why the charter of such bank should not be declared forfeited, and said

court or the superior court of judicature, upon the transfer of said proceedings thereto, may adjudge said charter to be forfeited and void. (*R. S., sec. 29.*)

SEC. 24. If the president, directors and company of any bank shall be aggrieved by any injunction, they may apply by petition to the superior court of judicature to dissolve the same, and said court, after due notice to the bank commissioners and a full hearing thereon, may dissolve, modify, continue or extend the same, as equity may require. (*R. S., sec. 30.*)

SEC. 25. If said commissioners shall deem it unsafe for the public at any time, that any bank should be entrusted with the management of its affairs, or if any bank charter shall be adjudged forfeited, they may apply by petition to the superior court of judicature or to any justice thereof, for the appointment of an assignee or assignees to take possession of the property and effects of said bank; and said court or justice may appoint an assignee or assignees accordingly, subject to such rules and orders as may from time to time be prescribed by said court or some justice thereof. (*R. S., sec. 31.*)

SEC. 26. Said assignee or assignees shall take possession of all the estate, property, rights and credits of every kind and description whatever belonging to such bank, and may demand, receive, sue for and recover the same wherever they may be found, and may require the officers of such bank or any person having any of said property, to execute to said assignee or assignees any transfer or conveyance thereof, and may collect all debts due and make sale and conveyance of all property belonging to such bank, and do all other acts necessary to convert the assets of such bank into money. (*R. S., sec. 32.*)

SEC. 27. Said court, or any justice thereof in vacation, may make such orders as shall be necessary to carry such assignment into full effect, and may affix such penalties for the disobedience thereof as may be thought necessary. (*R. S., sec. 33.*)

SEC. 28. Before any assignee shall enter upon the discharge of the duties of his appointment, he shall file in said court a good and sufficient bond to the county in which such bank is located, to be approved by said court or some justice thereof, in such sum as said court shall order, conditioned among other things faithfully to execute all the duties of his said appointment, and to render to said court a full account of his proceedings therein, and to comply with the orders of said court. (*R. S., sec. 34.*)

SEC. 29. Any person aggrieved by the default or misconduct of any such assignee, in the execution of his said trust, may on application to said court for that purpose, institute a suit on such bond in any court competent to try the same, and may recover the amount of the damages sustained by reason of such default or misconduct. (*R. S., sec. 35.*)

SEC. 30. All the assets of such bank shall be holden in trust, first, to pay all the expenses of the assignment; secondly, for the

payment of all the bills issued by such bank pro rata; thirdly, for the payment of all other debts, claims and obligations, owing by such bank; and the remainder to be divided among the stockholders in proportion to the amount of stock owned by each. (*R. S., sec. 36.*)

SEC. 31. Upon the application of said commissioners, said court may issue an injunction restraining all proceedings at law by any creditor against such bank at any stage thereof, and may order notice to be published in such manner as they shall direct, requiring all the creditors of such bank to exhibit their claims within such time as shall be directed, and in default thereof to be precluded from the benefit of any distribution of the effects of such bank, according to the provisions of this chapter. (*R. S., sec. 37.*)

SEC. 32. Every such assignee shall receive such reasonable compensation, for his expenses and services in the execution of his said trust, as said court shall order. (*R. S., sec. 38.*)

SEC. 33. If any officer, agent or clerk of any bank shall make false statements or false entries in the books of said bank, or shall exhibit false papers with intent to deceive said commissioners or either of them, as to the condition of such bank, he shall be punished by fine not exceeding one thousand dollars, or by confinement to hard labor for a term not exceeding five years. (*R. S., sec. 39.*)

SEC. 34. If any officer, agent or servant of any bank shall fraudulently convert to his own use any money, bill, note or security for money, evidence of debt, or any other effects whatever belonging to such bank, he shall be punished by fine not exceeding two thousand dollars, and by confinement to hard labor not exceeding five years. (*R. S., sec. 40.*)

SEC. 35. If any officer, agent or servant of any bank, being entrusted with or having the custody of any money, bills, notes, security for money, evidence of debt, or any other effects whatever belonging to such bank, shall, contrary to his duty and in breach of his trust, knowingly and voluntarily pay or deliver any such money, bill, note, security for money, evidence of debt or other effects to any person or to the order of any person, knowing that such person is not entitled to receive the same, he shall be punished by fine not exceeding two thousand dollars, and by confinement to hard labor not exceeding five years. (*R. S., sec. 41.*)

CASHIERS OF BANKS.

SEC. 36. The cashier of every bank shall, on the first Monday of March, June, September and December in each year, make a statement of the condition of such bank on said day, specifying in separate columns the amount of capital stock actually paid in; amount of debts due the bank secured by pledge of its stock; value of real estate belonging to the bank; amount of all debts

due to the bank; amount of all debts due from the directors either as principals or sureties, specifying whether on interest or otherwise; amount of specie in the vaults; amount of bills of other banks on hand; amount of deposits in the bank; amount of deposits in other banks for the redemption of its bills; and the amount of the bills of the bank then in circulation. (*R. S., sec. 17.*)

SEC. 37. Such statement shall be signed by the cashier, who shall make oath before some justice of the peace that the same is, in his belief and to the best of his knowledge, a just and true account of the situation of such bank at the time to which said statement refers, a certificate of which oath shall be made thereon, and such statement shall be returned to the secretary of state, within ten days after the said first Monday of March, June, September and December annually, who shall give a receipt therefor. (*R. S., sec. 18.*)

SEC. 38. If any bank shall neglect to make any such return as is provided in the preceding section, each bank so offending shall for every such offence be punished by a fine not exceeding one thousand dollars, and the certificate of the secretary of state shall be competent evidence of such neglect. (*R. S., sec. 19.*)

SEC. 39. The secretary of state shall cause to be published abstracts of the quarterly returns of banks required to be made by chapter one hundred and forty of the revised statutes (the thirty-sixth and thirty-seventh sections of this chapter) in the New Hampshire Patriot and State Gazette and in the New Hampshire Statesman and State Journal. (*Laws of 1844, chap. 99, and laws of 1846, chap. 379.*)

SEC. 40. No cashier of any bank shall be indebted to such bank as principal or surety, directly or indirectly in any manner whatever, except upon his official bond. (*R. S., sec. 43.*)

SEC. 41. It shall be the duty of cashiers of the several banks in this State, on or before the third day of April in each year, to make out a notice in writing to the assessors of the several towns in this State, in which persons may reside who own shares in their respective banks; in which notice shall be stated the name or names of the person or persons who owned shares in their respective banks, on the first day of April in each year, the number of shares owned by each, and the par value of a share; and to deposit said notice in the post office in the town in which any such cashier may reside, directed to the assessors aforesaid. (*Laws of 1845, chap. 251, sec. 1.*)

SEC. 42. The cashier of any bank in this State, who shall neglect or refuse to comply with the provisions of the preceding section, shall forfeit the sum of fifty dollars for each offence, to be recovered by indictment for the use of the town in which persons may reside owning shares as aforesaid. (*Laws of 1845, chap. 251, sec. 2.*)

BANK COMMISSIONERS.

SEC. 43. The governor, with the advice of the council, shall appoint three suitable persons residing within this State, no one of whom shall be an owner of stock in or indebted to any bank in this State, as bank commissioners, who shall hold their office for one year, and until others are duly appointed and commissioned in their stead. (*R. S., sec. 20.*)

SEC. 44. Said commissioners shall be removable, and the vacancies may be filled at pleasure, by the governor and council. (*R. S. sec. 21.*)

SEC. 45. It shall be the duty of some one of said commissioners, once at least in each year, without previous notice to the bank, and as much oftener as the governor may require, to make personally a full examination into the condition of each bank and the management of its affairs; to inspect all books, papers, notes, bonds and other evidences of debt of said bank; to ascertain the quantity of specie on hand, and generally to make all such inquiries as may be necessary to ascertain the actual condition of said bank, its ability to fulfil all its engagements, and whether it has violated any provision of its charter, or any law relative to banks or banking, and to report the condition of each bank to the governor as soon as may be after such examination. (*R. S., sec. 22.*)

SEC. 46. The clerk of the house of representatives shall, as soon as may be after the printing of any report of the bank commissioners by order of the house, forward one copy thereof to the solicitor of each county, and to the attorney general. And it shall be the duty of said county solicitors and attorney general to lay before the grand jury for indictment all cases of violation, by any bank director, of the provisions of the forty-fourth section of the one hundred and fortieth chapter of the revised statutes, (section fifty of this chapter) limiting the amount of the indebtedness of such director to his bank to one half the amount of his stock in such bank. (*Laws of 1852, chap. 1313.*)

SEC. 47. Such commissioner shall receive from each bank so examined, ten cents per mile each way for his actual travel to make such examination, and two dollars for each day necessarily employed in making such examination and report; but if there is more than one bank in any place, he shall not tax more than one travel. (*R. S., sec. 23.*)

SEC. 48. Any such commissioner may examine under oath all the officers, agents or servants of any bank, or any other person, in relation to the affairs and condition of such bank, and may administer said oath personally. (*R. S., sec. 24.*)

SEC. 49. Said commissioners shall make report of their proceedings and of the condition of said banks to the legislature annually, during the first week of its session. (*R. S., sec. 25.*)

DIRECTORS OF BANKS.

SEC. 50. If any director of any bank in this State shall be indebted or liable to such bank in any manner, directly or indirectly, by reason of any note, bond, obligation, promise or undertaking whatever, to a greater amount at one time than one half of the stock of such bank owned and held by such director, exclusive of shares upon which such bank has any lien or claim whatever, or for which the bank holds the director's stock note, he shall forfeit for each offence double the amount of such excess of indebtedness or liability, to be recovered by indictment, one half to the use of the complainant and the other half to the use of the county; *provided, however*, that no loan to any director of a bank shall exceed in all an amount greater than three per cent. of the capital stock of such bank actually paid in in money. (*R. S., sec. 44.*)

SEC. 51. Every promise or undertaking made by any director or other officer of any bank, to indemnify any other person for any liability to said bank, and every promise or undertaking whereby such director or other officer subjects himself, directly or indirectly, to any liability to such bank on account of any other person, shall be wholly unlawful and void. (*R. S., sec. 45.*)

SEC. 52. If any officer of any bank, or the co-partner of such officer, shall receive, directly or indirectly, any fee, reward or compensation for any services rendered or to be rendered, in or about procuring any loan or discount at such bank, or giving security therefor, or indemnifying or securing any surety, endorser or guarantor of any note, bill, draft or other instrument discounted at or held by such bank, against his liability thereon or by reason thereof, he shall forfeit for each offence one hundred dollars, together with three times the amount of such fee, reward or compensation, to be recovered by any person who will sue therefor. (*R. S., sec. 46.*)

VOTING, PROSECUTIONS AND FORFEITURES.

SEC. 53. No person shall vote on any bank shares at any bank meeting, in his own right, without first making oath before some justice of the peace, if thereto required by any stockholder at such meeting, that he is the absolute and bona fide owner of the shares he assumes to represent.* (*R. S., sec. 42.*)

SEC. 54. The attorney general and solicitors shall prosecute for all offences against this chapter which shall come to their knowledge. (*R. S., sec. 47.*)

SEC. 55. Whenever any bank corporation shall forfeit its charter, the attorney general, upon receiving satisfactory evidence thereof, shall file an information against such corporation at any

* The last clause of this section, (*R. S., chap. 140, sec. 42*) is left off, because it is by implication repealed by laws of 1846, chap. 321, sec. 3 and 5, (sec. 60 of this chapter, and also sec. 14, general provisions on corporations.) The first part of the section is retained, as it does not seem to be repealed.

term of the court of common pleas for the county in which such bank is located, for the purpose of vacating such charter, in the manner provided for in the twenty-third section of this chapter; and the court of common pleas and superior court of judicature shall have the same powers in relation thereto as in cases provided for in said section. (*R. S., sec. 48.*)

SEC. 56. All acts of incorporation heretofore granted to banks [shall] be so amended that they shall become null and void, unless the banks so incorporated shall have organized and commenced business on or before the first day of June, A. D., eighteen hundred and forty-six. (*Laws of 1845, chap. 250.*)

CLOSING OF BANKS.

SEC. 57. All banking corporations [shall] be and they hereby are authorized to close up the concerns of their respective corporations, at the times fixed for their termination, and to divide all the capital stock and other property of said banking corporations among the stockholders according to their respective shares; *provided* that said corporations shall at all times for and during four years after the expiration of their charter, retain in bank so much of their capital stock as shall be equal to twice the amount of their outstanding debts and liabilities. (*Laws of 1843, chap. 37, sec. 1.*)

SEC. 58. Whenever any banking corporation shall divide any portion of their capital stock, according to the provisions contained in this bill (*sec. 57, 58, 59 and 60 of this chapter,*) the members of said corporation shall be individually responsible for the redemption and payment of all bills and other liabilities which may have been issued or incurred by said corporations while they were members thereof; and the date of the bill or other obligation shall be *prima facie* evidence of the time of its issue and of the liability incurred; *provided, however,* that none of the provisions of this act (*sec. 57, 58, 59 and 60 of this chapter*) shall be so construed as to exempt any of the capital stock of such corporation from being liable for the payment of any and all the bills and other liabilities of such corporation, at any time issued and incurred. (*Laws of 1843, chap. 37, sec. 2.*)

SEC. 59. In case any bill or bills or other liability of said banking corporations shall not be redeemed and paid in specie, at the bank or by some agent authorized to redeem and pay the same, within sixty days after a demand of payment shall have been made therefor, either at the bank or upon the agent, who shall reside and keep his place of business within one mile of said bank, an action of assumpsit for money had and received may thereupon be maintained by any person injured thereby; and such action may be commenced and prosecuted to final judgment against any individual who was a member of such corporation, at the time or after such liability was so incurred, and for whose delin-

quency a right of action hath accrued; and the justices or court where said action may be determined, shall have the right to enter up judgment thereon and issue execution accordingly, which shall be levied, collected and returned as is provided in other cases; *provided* that no such action shall be sustained after four years shall have elapsed beyond the time fixed for the expiration of their charter. (*Laws of 1843, chap. 37, sec. 3.*)

SEC. 60. If any member of any banking corporation shall, under the provisions of the third section of this act, [the fifty-eighth section of this chapter] be compelled to pay for any of the liabilities of the corporation of which he is a member, such member shall have a right of action for contribution against the other members of such corporation, to recover what he may in equity be entitled to have; and such action may be commenced and prosecuted in any competent court to try the same, and be enforced as is provided in other cases. (*Laws of 1843, chap. 37, sec. 4.*)

PRIVATE LIABILITY OF STOCKHOLDERS IN BANKS.

SEC. 61. The stockholders of every banking corporation hereafter incorporated, or whose charter is by law subject to amendment, alteration or repeal, shall be severally liable, in their individual capacity, for the payment of the debts of the corporation, in a sum equal to the amount of their stock in said corporation, and not otherwise; and no such bank shall have or enjoy any other or greater rights, immunities or privileges in relation to the amount of bills or notes which they may issue, or have in circulation, to voting on stock, or by proxy, or to any matter or thing, than are enjoyed by other corporations of a like nature. (*Laws of 1846, chap. 321, sec. 3.*)

SAVINGS BANKS.

SEC. 62. It shall be the duty of some one of the bank commissioners, once at least in each year, without previous notice, and as much oftener as the governor may require, to make, personally, a full examination into the condition of each savings bank or institution for savings in this State, in the same manner as is required by the twenty-second section of chapter 140 of the revised statutes, [the forty-fifth section of this chapter.] (*Laws of 1847, chap. 500.*)

SEC. 63. Every officer of such savings bank, when required by such commissioner, shall exhibit all the books and papers of such bank in his possession to such commissioner, and shall answer under oath all such questions relating to the management and condition of such bank as may be asked by such commissioner, and for every neglect or refusal, shall be liable in the same manner as is hereinbefore provided for the like neglect or refusal in the case of banks. (*R. S., sec. 50.*)

SEC. 64. Whenever the bank commissioners are of opinion that any savings institution is not managed with that skill or honesty which the interests of its depositors require, they shall apply forthwith by petition to the superior court of judicature or to any justice thereof, who may issue an injunction and appoint assignees, and the same proceedings shall be had and the same powers possessed as is hereinbefore provided in case of banks. (*R. S., sec. 51.*)

SEC. 65. Any bank commissioner who, under the direction of the governor, shall make an examination of the concerns of any savings bank, shall receive from the bank so examined ten cents per mile each way for his actual travel to make such examination, and two dollars for each day necessarily employed in making such examination and report; but if there is more than one bank in any place, he shall not tax more than one travel. (*Laws of 1845, chap. 252.*)

SEC. 66. It shall be the duty of the treasurers of the several savings banks in this State, on or before the third day of April in each year, to make out notices in writing to the assessors of the several towns in this State, in which persons may reside having deposits of the amount of one hundred dollars or upwards in their respective banks, stating the names of such depositors and the sums deposited by each, and to deposit such notices in the post office in the town in which any such treasurer may reside, directed to the assessors aforesaid. (*Laws of 1848, chap. 737, sec. 1.*)

SEC. 67. The treasurer of any savings bank in this State, who shall neglect or refuse to comply with the provisions of the preceding section, shall forfeit the sum of fifty dollars for each offence, to be recovered by indictment for the use of the town in which persons may reside having deposits in such savings bank as aforesaid. (*Laws of 1848, chap. 737, sec. 2.*)

CHAPTER 149.

OF MANUFACTURING CORPORATIONS.

COMPILED FROM

Chapter 141 of the Revised Statutes.

" 488, Laws of 1847.

SECTION

1. Companies established since July 6, 1837, how regulated.
2. Affairs of corporation, how managed.
3. Directors, choice and powers.
4. Clerk and treasurer, choice and duties.

SECTION

5. Agent and officers, how appointed.
6. Corporation may make by-laws.
7. Capital stock limited and divided.
8. Certificates of shares.
9. Capital stock, how increased.

SECTION

10. Transfer of shares, how made.
11. Assessments on shares, how made.
12. Sale of shares for non-payment of assessments.
13. Mode of sale in such cases.
14. Liability of stockholders regulated.
15. Certificates of capital to be recorded.
16. If capital increased, certificate thereof to be recorded.
17. Officers personally liable for neglect.
18. Capital reduced, notice given.
19. Liability of stockholders in such cases.
20. Statement of debts to be made.
21. Dividend made when corporation insolvent, directors liable.
22. Loans to stockholders forbidden.
23. Indebtedness of corporation limited.

SECTION

24. Directors absent or objecting, not liable.
25. False certificate, penalty for making.
26. Suits against officers regulated.
27. Property of stockholders, how taken.
28. Creditors may have a bill in equity.
29. Stockholders may have contribution.
30. Officer liable may recover of company.
31. List of stockholders kept in this State.
32. Services of process, how made.
33. Legislature may examine affairs.
34. Ten hour's labor to constitute a day's work.
35. Penalty for employing a minor more than ten hours.

SECTION 1. All corporations established within this State, on or after July sixth, A. D., eighteen hundred and thirty-seven, for the purpose of carrying on any kind of manufacture, and the officers and stockholders of every such corporation, may exercise the powers, shall be governed by the provisions and be subject to the liabilities in this chapter contained.

SEC. 2. The business of every such manufacturing corporation shall be managed by the directors thereof, and such officers and agents as the company shall appoint; and every such company shall have a clerk and a treasurer.

SEC. 3. The directors shall not be less than three in number, and shall be chosen annually by the stockholders at such time and place within this State, as shall be provided by the by-laws of the company, and shall hold their offices for one year and until others are chosen and qualified in their stead; and one of the directors shall be chosen president either by the directors or by the company, as shall be directed by the by-laws.

SEC. 4. The clerk and treasurer shall also be chosen annually by the stockholders in manner aforesaid, and shall hold their offices until others are chosen and qualified in their stead; the clerk shall be sworn to the faithful discharge of his duty, and shall record all the votes of the company in a book to be kept for that purpose, and perform such other duties as shall be assigned to him; and the treasurer shall give bond, in such sum and with such sureties as shall be required by the by-laws, for the faithful discharge of his duty.

SEC. 5. All other agents and officers of the company shall be chosen and appointed in such manner as shall be directed by the by-laws.

SEC. 6. Every such company may make by-laws for their own regulation and government, with penalties for the breach thereof,

not exceeding twenty dollars; provided that such by-laws shall not be repugnant to the laws of this State.

SEC. 7. The amount of the capital stock of any manufacturing company hereafter incorporated, shall be fixed and limited by the company, and shall be divided into shares at its first meeting, and a record thereof shall be made by the clerk.

SEC. 8. The shares shall be numbered in progressive order, beginning at number one, and every stockholder shall have a certificate signed by the treasurer, certifying his property in such shares.

SEC. 9. Every such company may at any meeting called for that purpose, increase its capital stock and the number of shares therein; provided that the stock when so increased, shall not exceed the amount authorized by law.

SEC. 10. Any shares may be transferred by the proprietor thereof by a deed under his hand and seal, and recorded by the clerk of the corporation in a book kept for that purpose; and the purchaser named in such deed so recorded shall on producing the same to the treasurer and delivering to him the former certificate, be entitled to a new certificate.

SEC. 11. Every such company may from time to time, at any legal meeting called for that purpose, assess upon each share such sums of money as the company shall think proper, not exceeding in the whole the amount at which each share shall have been originally limited, and such sums assessed shall be paid to the treasurer, within such time and by such instalments as the company shall direct.

SEC. 12. If the proprietor of any share shall neglect to pay any sum duly assessed thereon, for the space of thirty days after the time appointed for the payment thereof, the treasurer of the company may sell by public auction a sufficient number of the shares of such delinquent proprietor, to pay all assessments then due from him, with all necessary and incidental charges.

SEC. 13. The treasurer shall give notice of the time and place appointed for such sale, and of the sum due on each share, by advertising the same three weeks successively before the sale in some newspaper printed in the county where the manufactory is established, if any is printed therein, otherwise in some adjoining county; and a deed of the shares so sold, being made by the treasurer and recorded as before provided in this chapter, the purchaser shall be entitled to a certificate therefor.

SEC. 14. All the members of every manufacturing company [incorporated] on or after the sixth day of July, eighteen hundred and thirty-seven, shall be jointly and severally liable for all debts and contracts made by such company, until the whole amount of the capital fixed and limited by the company in manner aforesaid, shall have been paid in, and a certificate thereof shall have been made and recorded by the town clerk of the town where such manufactory is situated, in a book by him kept for that purpose.

SEC. 15. The president and directors, with the treasurer and clerk of each of the companies mentioned in this chapter, within thirty days after the payment of the last instalment of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the president, treasurer and clerk, and a majority of the directors; and they shall, within the said thirty days, cause the same to be recorded in the town clerk's office in the town wherein the manufactory is established.

SEC. 16. If any company shall increase their capital stock as before provided in this chapter, the officers mentioned in the preceding section, within thirty days after the payment of the last instalment of such additional stock, shall make a certificate of the amount so added and paid in, and sign and swear to the same, and cause it to be recorded in the manner provided in the preceding section.

SEC. 17. If any of the said officers shall refuse or neglect to perform the duties required of them in the two preceding sections, they shall be jointly and severally liable for all debts of the company contracted after the expiration of the said thirty days, and before such certificate shall be recorded as aforesaid.

SEC. 18. Every such company may by vote, at any meeting called for that purpose, reduce its capital stock; and in such case a certified copy of the vote shall, within thirty days after the passing thereof, be recorded in the town clerk's office in the town wherein the manufactory is established; and in default thereof the directors of the company shall be jointly and severally liable for all debts of the company contracted after said thirty days, and before the recording of the copy of the vote as aforesaid.

SEC. 19. If any part of the capital stock of such company shall be withdrawn and refunded to the stockholders before the payment of all the debts of the company contracted previously to the recording of the copy of a vote for that purpose in the town clerk's office, as prescribed in the preceding sections, such of the stockholders of the company as shall vote for or actually receive their share of the capital stock so withdrawn or refunded, shall be jointly and severally liable for the payment of the said last mentioned debts.

SEC. 20. Every such company shall give notice annually, in the first week of May, to the governor, of the amount of all assessments voted by the company and actually paid in, and the amount of all existing debts due to and from said company, and the value of the stock and goods on hand and unsold so far as the same can be ascertained, which notice shall be signed by the president and a majority of the directors; and if any such company shall fail so to do, all the stockholders of the company shall be jointly and severally liable for all debts of the company then existing, and for all that shall be contracted before such notice shall be given.

SEC. 21. If the directors of any such company shall declare

and pay any dividend, when the company is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted so long as they shall respectively continue in office; *provided*, that the amount for which they shall all be so liable, shall not exceed the amount of such dividend, and that if any of the directors shall be absent at the time of making the dividend, or shall object thereto and shall file their objection in writing with the clerk of the company, who shall record the same, they shall be exempted from the said liability.

SEC. 22. No note or obligation given by any stockholder, whether secured by any pledge or otherwise, shall be considered as payment of any part of the capital stock, and no loan of money shall be made by any such company to any stockholder therein; and if any such loan shall be made to a stockholder, the officers who shall make it or who shall assent thereto, shall be jointly and severally liable to the extent of such loan and interest, for all the debts of the company contracted before the payment of the sum so loaned.

SEC. 23. The whole amount of the debts which any such company shall at any time owe, shall not exceed the amount of its capital stock actually paid in, and the cost of its stock and manufactured goods on hand and unsold; and in case of any excess the directors under whose administration it shall happen, shall be jointly and severally liable to the extent of such excess, for all the debts of the company then existing, and for all that shall be contracted so long as they shall respectively continue in office, and until the debts shall be reduced to the said amount of the capital stock.

SEC. 24. Any of the directors who shall be absent at the time of contracting any debt, contrary to the foregoing provisions, or who shall object thereto, may exempt themselves from the said liability, by forthwith giving notice of the fact to the stockholders at a meeting which they may call for that purpose.

SEC. 25. If any certificate made, or public notice given by the officers of any manufacturing company, in pursuance of the provisions of this chapter, shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the company, contracted while they were stockholders or officers thereof.

SEC. 26. When any of the officers of any manufacturing company shall be liable by the provisions of this chapter to pay the debts of such company or any part thereof, any person to whom they shall be so liable, may have an action on the case against any one or more of the said officers, and the declaration in such action shall state the claims against the company, and the ground on which the plaintiff expects to charge the defendant personally;

and such action may be brought notwithstanding the pendency of an action against the company, for the recovery of the same claim or demand, and both of the said actions may be prosecuted until the plaintiff shall obtain the payment of his debt and the cost of both actions.

SEC. 27. When the stockholders of any manufacturing company shall be liable by the provisions of this chapter to pay the debts of such company or any part thereof, their property may be taken therefor on any writ of attachment or execution issued against the company for such debt, in the same manner as on writs and executions issued against them for their individual debts.

SEC. 28. When any of the said officers or stockholders are liable as mentioned in the two preceding sections, for the debts of any such company, the person to whom they are so liable may, instead of the proceedings mentioned in said two sections, have his remedy against the said officers or stockholders by a bill in equity in the superior court.

SEC. 29. Any stockholder who shall, whether voluntarily or by compulsion, pay any debt of the company for which he is made liable by the provisions of this chapter, may recover the amount so paid in an action on the case against the company, in which action the property of the company only shall be liable to be taken, and not the property of any stockholder of the company; or the person who shall have so paid such debt of the company, may have a bill in equity in the superior court for contribution against any one or more of the stockholders who were originally liable with him for the payment of the said debts, and may recover against each of them their just and equitable proportion thereof.

SEC. 30. Any officer of a manufacturing company, who shall pay any debt of the company for which he is made liable by the provisions of this chapter, may recover the amount so paid in an action against the company for the money paid for their use, in which action the property of the company only shall be liable to be taken, and not the property of any stockholder.

SEC. 31. When the treasurer of any manufacturing company within this State shall not be resident therein, a record of the ownership of the shares in such company shall be kept by the clerk thereof, and the said shares shall be liable to attachment, as the property of the person or persons who by such record shall, at the time of the attachment, appear to be the owner or owners thereof.

SEC. 32. The service of all process issuing from any court or civil magistrate in this State, either against the corporation or a stockholder, if made upon the clerk, shall be as valid to all intents and purposes as if made on the treasurer.

SEC. 33. The proceedings of any such corporation may be inquired into and examined at any time, by a committee appointed by the legislature for that purpose, at the expense of said corporation.

SEC. 34. In all contracts for or relating to labor, ten hours of actual labor shall be taken to be a day's work unless otherwise agreed by the parties; and no person shall be required or holden to perform more than ten hours labor in any one day, except in pursuance of an express contract requiring a greater time. (*Laws of 1847, chap. 488, sec. 1.*)

SEC. 35. No minor under the age of fifteen years shall be employed in any manufacturing establishment more than ten hours the day, in any labor, without the written consent of the parent or guardian of such minor first obtained. If any manufacturer, or any corporation, or the agent of any manufacturer or corporation shall employ any such minor in violation of the provisions of this section, he or they shall be punished by a fine not exceeding one hundred dollars. (*Laws of 1847, chap. 488, sec. 2.*)

CHAPTER 150.

OF RAILROAD CORPORATIONS.

COMPILED FROM

Chapter 142 of the Revised Statutes.

"	128,	Laws of 1844.
"	227,	" " 1845.
"	335,	" " 1846.
"	485,	" " 1847.
"	486,	" " 1847.
"	621,	" " 1848.
"	953,	" " 1850.
"	965,	" " 1850.
"	990,	" " 1850.
"	1104,	" " 1851.
"	1113,	" " 1851.
"	1232,	" " 1852.
"	1277,	" " 1852.
"	1302,	" " 1852.

RAILROADS MADE PUBLIC CORPORATIONS AND REQUIRED TO ACCEPT THE PRO- VISIONS OF THE LAWS.

SECTION

1. Railroad corporations public in certain cases, and must adopt the provisions of this chapter.
2. Shall file in the secretary's office copies of their records and pay for publication.

RAILROAD COMMISSIONERS.

SECTION

3. Railroad commissioners, how elected.
4. One commissioner elected each year.
5. Vacancy by death or otherwise filled by governor and council.
6. Commissioners to examine condition of each railroad.
7. Commissioners may examine officers under oath.

SECTION

8. Compensation of commissioners.

PROCEEDINGS IN LAYING OUT RAILROADS
AND AWARDED LAND DAMAGES.

9. Railroad corporations may petition commissioners to examine route.
10. Railroad commissioners on application, to lay out road and in conjunction with selectmen to appraise land damages.
11. Owners of land may appeal to C. C. P. for increase of damages.
12. Commissioners may alter location if public good requires.
13. Alteration of location to operate as a discontinuance of former route.
14. Damages to land owners in case of variation of route.
15. Commissioners to make report to the governor and council.
16. Damages to be paid to land owners only in case of entry.
17. Corporations not to enter on land until damages paid or tendered, except in cases of appeal.
18. Commissioners to certify damages to town clerk.
19. Corporation may appeal to governor and council.
20. Land entered upon, how appraised when there has been a failure of title.
21. Commissioners may lay out road in separate parts and at different times.
22. What shall be sufficient notice to land owners and to selectmen.

RIGHTS GUARANTIED BY THE STATE,
PRIVILEGES RESERVED, &C.

23. Governor and council may lease right of way.
24. Leases may be renewed.
25. Leases to be recorded in council records.
26. Corporations to deposit with state treasurer amount of damages assessed.
27. Releases from land owners to be received by treasurer instead of money.

SECTION

28. State may resume the right and privileges of corporations.
29. Excess over ten per cent. to be paid into the state treasury.
30. Transportation of State or United States property.
31. Tolls subject to alterations by the legislature.
32. Locomotives or cars may be run on roads by all persons.
33. Corporation shall not discontinue road.
34. Records, papers and files open to inspection.

INTERSECTIONS OF RAILROADS AND HIGHWAYS
TO BE SECURED BY GATES AND BRIDGES.

35. Bridges and gates at crossings.
36. If not made, rails may be taken up.
37. Railroad corporations may apply to court of common pleas.
38. Court may authorize railroad corporations to erect bridges.
39. May take land in certain cases.
40. Parties interested to be heard before road commissioners.
41. Proceedings on petitions for damages.
42. Owners of land may have damages assessed by jury.
43. Court may render judgment on report of road commissioners and issue injunctions in certain cases.
44. Any person or other corporation injured by constructing railroads over or under highways or bridges may have damages.

CATTLE GUARDS AND FENCES.

45. Shall make and maintain cattle guards and farm crossings; fines for not doing so.
46. Fences on railroads, how maintained.
47. Corporations may recover of persons liable.

ENGINES AND CARS PASSING HIGHWAY
CROSSINGS.

48. Speed allowed engines passing highway crossings.
49. Crossing not to be used for shifting cars or trains, except on license granted.

SECTION

50. Obstruction of highways not to exceed five minutes.
 51. Penalty for violating this act.
 52. Railroad commissioners may grant license for crossings, &c.

RAILROADS MAY MAKE TERMS OF CONTRACTS.

53. Railroads may make contracts for transportation.
 54. If unable to agree, may apply to superior court for appointment of referees.
 55. May make contracts for the use of other roads.

REAL ESTATE, BONDS, &c.

56. Corporations may purchase and hold real estate.
 57. Railroad bonds may be sold at a discount.
 58. Act to be accepted by unanimous vote.
 59. Corporation liable for damage by fire or steam.
 60. Corporation may insure against fire.

REGULATION OF DEPOTS, TOLLS, OFFICERS AND REPORTS.

SECTION

61. Penalty for not establishing proper depots.
 62. Railroads required to fix rates of toll and freight and post the same in their depots; no rates to be advanced without thirty days' notice.
 63. What persons may pass free; special trains, &c.
 64. Conductors, their duties; may call assistance same as sheriff; penalty, &c.
 65. Prosecution for violation of this act to be commenced within six months.
 66. Penalty for loss of life.
 67. Treasurer and clerk to reside in this State, except in certain cases.
 68. Directors to make annual reports to legislature under oath.
 69. Penalty for violation of this act.
 70. Passengers entitled to have baggage carried.

RAILROADS MADE PUBLIC CORPORATIONS.

SECTION 1. All railroad corporations which now are or shall hereafter be chartered by the authority of this State, and which shall be unable to purchase the lands for their roads of the owners on their respective routes, at rates to be agreed upon by the parties, are hereby made and declared to be public corporations: *provided* they adopt the provisions in this act contained (sections 1, 4, 7, 8, 9, 10, 11, 12, 16, 17, 20, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34 and 35 of this chapter) as a part of their charters, which adoption shall be by vote of the corporation at a meeting duly held for that purpose, and by filing in the office of the secretary of state a duly authenticated copy of the record of such vote of adoption, to be by him published at the expense of the corporation, in the New Hampshire Patriot and State Gazette, printed at Concord, and in such other papers authorized to publish the laws of this State in the county or counties in which said railroad is located. (*Laws of 1844, chap. 128, sec. 3; amended laws of 1848, chap. 709.*)

SEC. 2. Whenever any railroad corporation shall have adopted the provisions of the act to which this is in addition (laws of 1844, chap. 128) and shall forward a notice thereof to the secretary of state for publication, as required by section one of this chapter, said corporation shall deposit with the state treasurer a sum suffi-

cient to defray the expense of such publication, otherwise the said secretary shall not cause such publication to be made. (*Laws of 1845, chap. 227, sec. 6.*)

RAILROAD COMMISSIONERS.

SEC. 3. There shall be a board of railroad commissioners consisting of three, who shall be elected by the inhabitants (legal voters) of the several towns and places in this State, in the same way and manner as the governor of the State is elected, and sworn to the faithful performance of the duties of their offices, in the same way and manner as justices of the peace are now sworn, and whose duties shall be as hereinafter prescribed. And the votes for said commissioners shall be returned, counted and declared in the same manner as votes for senators, by the governor and council; and in case there shall be no election by the people, of said commissioner, the vacancy shall be filled by the senate and house of representatives in convention, in the same manner as vacancies are now filled in the senate. (*Laws of 1844, chap. 128, sec. 1; amended by laws of 1851, chap. 1104, sec. 1.*)

SEC. 4. The election of said commissioners shall take place on the second Tuesday of March, annually, and one commissioner shall be elected each year successively, commencing with the oldest in commission. And when the votes for said commissioner shall have been returned, counted and declared as aforesaid, the appointment of any such commissioner then in office shall cease on and after the second Wednesday of June following said election. (*Laws of 1851, chap. 1104, sec. 2.*)

SEC. 5. Whenever a vacancy shall occur in said board by death or otherwise, the governor and council shall fill the office by appointment until another shall be chosen as herein provided, and no longer. (*Laws of 1851, chap. 1104, sec. 3.*)

SEC. 6. It shall be the duty of one of said commissioners, once at least in each year, without previous notice to the corporation, and as much oftener as the governor may require, to make personally a full examination into the condition of each railroad corporation in the State, and the management of its affairs, to inspect, so far as may be practicable, all books, papers, notes, records, bonds and other evidences of debt, and all property, deeds and bills of sale of property of said corporations, to ascertain whether they shall have faithfully and fully observed and performed all their liabilities and obligations to the State and to individuals, and whether they have violated any of the provisions of their charters, or of any law relating to railroad corporations, and report the condition of each railroad to the governor, as soon as may be after such examination, which reports shall be by the governor communicated to the legislature at their next annual session, after the same shall be so made to him. (*Laws of 1844, chap. 128, sec. 18.*)

SEC. 7. Any railroad commissioner may examine, under oath

all the officers, agents or servants of any railroad corporation, or any other person, in relation to the affairs and condition of such corporation, and may administer such oath personally. (*Laws of 1844, chap. 128, sec. 19.*)

SEC. 8. Such commissioners shall receive for their services under this act at the rate of ten cents per mile each way for necessary travel, and three dollars for each day necessarily employed in such services, including expenses, the same to be paid by the corporations on whose petition they shall make surveys, or into the examination of whose affairs they shall be employed, respectively, excluding the time of travelling to and from the place of survey or examination, and all expenses of any survey and assessments of damages, as aforesaid, shall be paid by the corporation on whose petition the same shall be made: *provided* that no one shall be [elected] or appointed to the office of railroad commissioner who shall be a stockholder, officer, or interested in any railroad corporation whatever, and in case any one [elected] or appointed to said office shall become such stockholder, officer, or so interested, he shall immediately thereon cease to hold said office. (*Laws of 1844, chap. 128, sec. 20.*)

PROCEEDINGS IN LAYING OUT RAILROADS AND AWARDING LAND DAMAGES.

SEC. 9. Any such corporation, having adopted the provisions of this act as aforesaid, (referred to in the first section of this chapter) may by petition, authorized by vote of the corporation, signed by their president and clerk, apply to said board of commissioners, who shall thereupon proceed to make such a survey of the route proposed by the corporation so applying, as they shall deem necessary, with the assistance of an engineer, to be by them selected, if in their opinion the same shall be necessary, which route shall be within the limits prescribed and authorized by the charter of said corporation; and if after due hearing of the petitioners and of such persons as shall object to the laying out of the proposed railroad, notice of the time and place of hearing being first published in the New Hampshire Patriot and State Gazette, two weeks successively, the last publication to be at least two weeks before the day of hearing, which shall be legal notice to all parties concerned, the opinion of said commissioners, or a majority of them, be that the public good would not be promoted by the laying out of such road, the commissioners shall proceed no further in the matter, unless an appeal be taken as is provided in the seventh section of this act, (the nineteenth section of this chapter;) but if their opinion be that the public good would be promoted by the laying out of the proposed road, the commissioners shall, as seasonably as may be, make report of such decision, containing a description of the route surveyed, to the governor and council, which report shall be filed in the office of the secretary of state, and the governor, with

advice of the council, at their next session after such report shall be so filed, shall proceed to consider the same, and shall decide whether in their opinion the public good would be promoted by the laying out of said road; which decision shall be immediately communicated by the governor, by written order, to the railroad commissioners; and the commissioners, if said decision is adverse to the laying out of the proposed road, shall proceed no further in the matter. (*Laws of 1844, chap. 128, sec. 4; amended by laws of 1845, chap. 227, sec. 5.*)

SEC. 10. If the decision of the governor and council is favorable to the laying out of the proposed road, the commissioners shall, on written application of the corporation, proceed to lay out said road so surveyed, and in conjunction with the selectmen of the town in which such land may be situated, shall assess the damages sustained by the owners of land, in the same way and manner as road commissioners in the several counties are now (Dec. 25, 1844) by law required to do. (*Laws of 1844, chap. 128, sec. 5; amended by laws of 1848, chap. 621.*)

SEC. 11. And the same right of appeal to the court of common pleas in the county where such lands may lie, to be proceeded with in the same way and manner, is hereby secured to the land owners, as is provided in section eighth of chapter fifty one of the revised statutes. [*Chapter fifty-four of this compilation.*] (*Laws of 1844, chap. 128, sec. 5.*)

SEC. 12. Any railroad corporation desirous of improving any part of its line by a variation of its location, may apply by petition to the railroad commissioners for that purpose, and if said commissioners, after due examination had, shall be of the opinion that the public good would be promoted thereby, they may lay out such proposed variation within the limits of the charter of the corporation, and assess the damages in the same manner, and the same proceedings shall be had relative thereto, as in case of an original route; *provided, however*, that if the land over which the variation is located shall belong wholly to the corporation, the railroad commissioners shall in their report estimate the sum at which it shall be valued in case the State shall resume the right and privilege of the corporation in such railroad, without any further appraisal of damages for the same. (*Laws of 1847, chap. 485, sec. 1.*)

SEC. 13. The laying out of such variation as aforesaid, and the construction of a railroad thereon, shall operate as a discontinuance of that part of the former route for which such variation is a substitute. (*Laws of 1847, chap. 485, sec. 2.*)

SEC. 14. If the damages awarded to land owners on that part of the route for which such variation is a substitute, shall not have been paid at the time the same is laid out as aforesaid, said land owners, upon such discontinuance, shall receive as damages only the amount of the actual loss or damage, to be appraised by the commissioners, at the time of such laying out, from which the

land owner may appeal as in the case of an original appraisal of damages. (*Laws of 1847, chap. 485, sec. 3.*)

SEC. 15. Said commissioners shall, as soon as they reasonably may, make a report of all their proceedings, containing a particular description of the railroad route laid out, and their assessment of the damages awarded to the several land owners, in the same way and manner as county road commissioners are required to do in chapter fifty-one of the revised statutes [fifty-four of this compilation,] except that such report shall be made to the governor and council, and shall be filed in the office of the secretary of state, and by him recorded in a book kept for that purpose. (*Laws of 1844, chap. 128, part of sec. 6.*)

SEC. 16. Such damages shall be paid to the land owners only in case of entry on the route to construct said road, and no land so appraised shall be entered upon for the construction of the road, until the damages assessed as aforesaid are paid or tendered to those entitled to the same, or to their legal representatives, by the railroad commissioners, in behalf of the State, in the same way and manner as is required in case of highways made by towns, and said commissioners shall draw on the state treasurer, by their order, for the sums necessary for that purpose. (*Laws of 1844, chap. 128, sec. 6.*)

SEC. 17. The corporation shall not enter on any land to construct a railroad thereon, until the damages assessed to the owner thereof shall have been paid or tendered, except in the cases mentioned in the second section of the fifty-second chapter of the revised statutes, [fifty-six of this compilation] and no person shall be entitled to an action for such damages until after such entry shall have been made on his land, *provided* that in case an appeal shall be taken from the decision of the commissioners, the corporation may, on giving or tendering to the land owner security to the satisfaction of the road commissioners for the county, that they will pay such damages and costs as may be adjudged against them in such appeal, immediately enter on the land to construct a railroad as aforesaid. (*Laws of 1846, chap. 227, sec. 4.*)

SEC. 18. The railroad commissioners shall in all cases certify the damages by them, separately or in conjunction with the selectmen of the town in which such land may be situated, awarded to the owners of land in each town, to the town clerk of such town, within ten days of the time of filing their report in the office of the secretary of state, and such certificate shall be kept in the files of his office by such town clerk, who shall note thereon the time when it was received; and if such time be less than thirty days prior to the term of the court of common pleas next to be holden in that county, any appeal of such owner of land from such award may be entered at the term of said court next to be holden after the lapse of said thirty days. (*Laws of 1847, chap. 485, sec. 4.*)

SEC. 19. If in any case after the survey made, the decision of the commissioners shall be adverse to the laying out of the pro-

posed railroad, and the corporation shall be dissatisfied therewith, they may, through their president or agent, appeal by petition to the governor, who, with advice of council, shall proceed to consider the matter, and if necessary give hearing to the parties interested; and if in the opinion of the executive, the public good would be promoted thereby, shall issue an order directing the laying out of the proposed railroad to the railroad commissioners, who shall thereupon proceed to lay out said road, and to do all other things as in other cases of roads by said commissioners laid out. (*Laws of 1844, chap. 128, sec. 7.*)

SEC. 20. Whenever any land may have been or shall be entered upon and taken for the construction of a railroad, and any party shall appear entitled to any estate, right or interest in or charge affecting said land which was not adjusted by purchase or appraisal thereof at the time of the laying out and construction of said road, in such cases said land, on petition to the railroad commissioners, may be laid out and appraised in the same way and manner as is provided for the original laying out and appraisal of land; and if the road is in operation it shall not be obstructed in the use of said land after written application has been made to the commissioners to lay out the same, and notice thereof has been served on the landholders, until such appraisal shall be made. (*Laws of 1850, chap. 953, sec. 13.*)

SEC. 21. When any route for a railroad shall have received the sanction of the railroad commissioners and the approval of the governor and council, it shall be lawful for the commissioners, on application to them for that purpose by the corporation, to lay out the same at different and successive times, in such parts as shall be deemed by such commissioners conducive to the interests of all concerned, and in conjunction with the selectmen of the town in which such part of the road so laid out at any time shall lie, to assess the damages to the land owners on such part of said route; and when such corporation shall have complied with all the requirements of law in relation to such portion of the route so laid out, a lease shall be granted of such portion, in the same manner as is provided by law for the whole route when laid entire. (*Laws of 1845, chap. 227, sec. 1; amended by laws of 1848, chap. 621.*)

SEC. 22. When a portion of a route has been laid and damages assessed, as provided in the preceding section, the notices to the land owners and selectmen, signed by the chairman of the railroad commissioners, setting forth the time and place of commencing such laying out, and the extent of the route to be laid out being in other respects conformable to the act to which this is in addition, (*laws of 1844, chap. 128,*) shall be sufficient to all land owners on so much of the route as shall be therein described. (*Laws of 1845, chap. 227, sec. 2.*)

RIGHTS GUARANTIED BY THE STATE, PRIVILEGES RESERVED, &C.

SEC. 23. The governor and council, whenever said road is laid

out as aforesaid, shall, on written application of said corporation therefor, by indenture of lease, under seal of the State, signed by the governor and certified by the secretary of state, lease and guaranty to said corporation for a term not less than one hundred years nor more than two hundred years, the right to construct a railroad over said route, for the public use and benefit, with the right of user in the same to pass and repass with their locomotives, cars and vehicles of transportation thereon, and for other usual and necessary purposes of a railroad, in the same way and manner as they would be allowed to do by their charter of incorporation before granted, which charter shall remain in force, except so far as the same shall be changed and modified by the provisions and restrictions in this act contained. (*Laws of 1844, chap. 128, sec. 8.*)

SEC. 24. At the expiration of said term, the right so leased shall revert to the State; and such lease may be renewed in the same way and manner as above specified, subject to the restrictions incident to the lease before granted, or to such other restrictions as may be prescribed by the legislature at the time of such renewal. (*Laws of 1844, chap. 128, sec. 8.*)

SEC. 25. If at the expiration of any such term, the State shall decline to renew by lease the right of said corporation in such road, they shall make to said corporation due compensation therefor; and an attested copy of every such indenture of lease shall be recorded by the secretary of state in the council record. (*Laws of 1844, chap. 128, sec. 8.*)

SEC. 26. Such corporation shall, after the execution of the lease aforesaid, and before the delivery of the same, deposit with the state treasurer for the time being, who is hereby made an agent for that purpose, a sum equal to the whole amount of damages assessed as aforesaid, for the land over which said road shall pass; *provided*, that if the title of any land so taken by the State shall fail, so that a reappraisal of the same becomes necessary, the corporation shall pay the damage and expense thereof. (*Laws of 1844, chap. 128, sec. 9.*)

SEC. 27. Releases from land owners of the damages awarded to them, filed with the state treasurer, shall be received by him instead of the money required to be deposited on account of such land owners, and the corporation shall be only required to deposit from time to time with the treasurer the damages awarded to land owners on so much of the route as shall have been laid out aforesaid, for which releases shall not be filed as aforesaid. (*Laws of 1845, chap. 227, sec. 3.*)

SEC. 28. The State may, at any time after twenty years, resume the right and privilege of the corporation in such railroad, on giving one year's notice, and paying to the corporation all it may not have received of its expenditures, and interest on such expenditures, at the rate of ten per cent. per annum. (*Laws of 1844, chap. 128, sec. 10.*)

SEC. 29. Such corporations shall keep exact accounts of all

their receipts and expenditures, and make annual reports thereof to the railroad commissioners, who shall annually communicate the same to the legislature, and in any and every year when their net receipts shall be found to exceed the average of ten per cent. on their expenditures, from the commencement of their operations, the excess shall be paid into the treasury of the State, until otherwise directed by the legislature. (*Laws of 1844, chap. 128, sec. 11.*)

SEC. 30. Such corporation shall, in time of war, insurrection or invasion, carry and transport soldiers, munitions of war belonging to the State, upon its road, when by the State or their authorized agents thereto required, free of charge, and all other property belonging to the State, at such rates as the governor and council shall impose, if the parties do not agree, and shall carry and transport soldiers, munitions of war, and all other property belonging to the United States, and the mails of the United States, when by the United States or their authorized agents thereto required, at such rates and on such conditions as the governor and council of this State shall allow and impose, in case the United States and such corporation cannot agree upon the same, and the United States shall consent to submit the matter to the decision of the governor and council as aforesaid. (*Laws of 1844, chap. 128, sec. 12.*)

SEC. 31. The rates of toll for freight or passengers and merchandise, when the net income of the stock shall exceed ten per cent., shall be subject to alteration and revision by the legislature, according as they shall deem just and expedient. (*Laws of 1844, chap. 128, sec. 13.*)

SEC. 32. Such corporations, whenever thereto required by the legislature, shall permit all persons to run locomotives and cars on their road, or may be required by the legislature to draw the cars of such persons with the engines of the corporation on said road, subject to such tolls, rules and regulations as the legislature may from time to time prescribe, having due regard to the income of the said road, as heretofore specified, as well as the convenience, safety and welfare of all concerned; and provided that when cars and engines are placed by others on the road, such others shall be liable to pay all damages arising from their own default or neglect. (*Laws of 1844, chap. 128, sec. 15.*)

SEC. 33. Such corporation shall not discontinue its road, nor neglect to keep the same in good repair, nor omit to discharge its duties in carrying passengers, merchandise or other freight, without the consent of the legislature, and shall in all things conform to the provisions of this statute; and in default thereof, shall be liable to indictment and fine in the county where such want of repair occurs, or in case of any violation of the laws, rules and regulations above named, in any county in which the road or any part thereof may be situated. (*Laws of 1844, chap. 128, sec. 16.*)

SEC. 34. All railroad corporations in this State which have

been heretofore or shall hereafter be incorporated, shall keep a full record of all their doings and submit all their records, papers and files to the inspection of the legislature, its committees or railroad commissioners, when thereto by them required. (*Laws of 1844, chap. 128, sec. 17.*)

INTERSECTIONS OF RAILROADS AND HIGHWAYS TO BE SECURED BY
GATES AND BRIDGES.

SEC. 35. If any railroad shall intersect or cross any highway in any town in this State, such town may at any legal town meeting direct that such place of crossing or intersection shall be secured by a bridge over said road, or by the erection of gates on both sides of said highway, or by passes under said road, as the town may think expedient. (*R. S., chap. 142, sec. 4; amended by laws of 1852, chap. 1232.*)

SEC. 36. If after due notice given of such vote to the clerk of such railroad corporation, such corporation shall neglect for the space of six months to erect and complete to the satisfaction of the selectmen of such town, such bridge or gates or passes under said road according to the vote of the town as aforesaid, the selectmen may remove or cause to be removed the rails from such railroad where it crosses such public highway, and no engine or car shall be permitted to run across such highway until the vote of the town shall be complied with. (*R. S., chap. 142, sec. 5, as amended by laws of 1852, chap. 1232.*)

SEC. 37. Whenever any town shall give notice to any railroad corporation to secure by a bridge, gate or pass the intersection or crossing of the railroad of such corporation with a highway, in pursuance of section 4 of said chapter 142 of the revised statutes, [thirty-five of this chapter,] said railroad corporation may, at any time within thirty days after their clerk is notified of said vote, apply by petition to the court of common pleas in the county in which said town is, to cause said crossing or intersection to be examined and the direction of said court to be had in relation to the order or requirement of said town, of which notice shall be given to said town as in other cases; and thereupon the said court shall refer said petition to the road commissioners for said county, who shall give notice, hear the parties, examine said intersection, pass or crossing, and make report as in cases of petitions to said court for laying out highways, and in said report shall specify whether in their opinion the bridge, gates or pass required by said town, or what other security, if any, is necessary at said intersection or crossing. (*Laws of 1846, chap. 335, sec. 1.*)

SEC. 38. Whenever any railroad shall deem it necessary for the public security to erect bridges, gates or passes at the intersections or crossings aforesaid, they may petition the court of common pleas for authority to construct the same, and thereupon the same

proceedings shall be had as are provided for in the preceding section. (*Laws of 1846, chap. 335, sec. 2.*)

SEC. 39. If additional land shall be necessary in either of the cases aforesaid, for the construction of said bridges, passes or gates, the said commissioners shall specify the same in their report; *provided, however*, that the owners of such land shall in all cases have notice and be heard, if they see fit, as in the case of taking land for highways; and if said report shall be accepted, said corporation shall have authority to take the same for the purposes aforesaid, after making previous payment or tender to the owner thereof of the damages occasioned by taking the same, to be assessed as hereinafter provided. (*Laws of 1846, chap. 335, sec. 3.*)

SEC. 40. In all cases where such bridges, passes or gates shall be erected and the land of individuals taken therefor, or where the property of individuals shall sustain consequential damages by reason of the construction thereof, or shall have sustained such damages by the construction or continuance of such bridges, passes or gates heretofore erected, and for which the owners have not been compensated, it shall be the duty of said road commissioners to give notice, hear the parties and make report, as in the case of damages sustained by laying out highways; and said assessment of damages may be made upon a petition presented by said railroad as aforesaid, or upon a petition therefor by the owner of such property to the court of common pleas for that purpose. (*Laws of 1845, chap. 336, sec. 4.*)

SEC. 41. Whenever the owner of such property shall present to the court of common pleas a petition for the assessment of his damages in the cases aforesaid, notice thereof shall be given to such corporation at least thirty days before the term of the court at which the same is to be heard, and the proceedings shall be the same as in cases where owners of land petition said court for damages for lands taken for highways. (*Laws of 1846, chap. 335, sec. 5.*)

SEC. 42. Any owner of land, or any railroad corporation, dissatisfied with the damages assessed in any of the cases aforesaid, shall have the right to have the same assessed by a jury, as is provided in the eighth section of chapter fifty-one of the revised statutes, [fifty-four of this compilation.] (*Laws of 1846, chap. 335, sec. 6.*)

SEC. 43. The court of common pleas may, in all the cases aforesaid, if no sufficient objection appears, render judgment upon the report of said commissioners, and issue execution where the nature of the case shall require it, and shall prescribe the time within which the bridges, passes or gates aforesaid shall be constructed; and in case of the non-compliance of such corporations with any order made in pursuance of this act, [this and the six preceding sections,] either of the judges of the superior court may by injunction prohibit such corporation from using such railroad until the said order shall be complied with. (*Laws of 1846, chap. 335, sec. 7.*)

SEC. 44. If any railroad corporation, in constructing or maintaining their railroad, shall in altering any highway, turnpike, bridge or private way, for the purpose of constructing their railroad over, under or near such highway, turnpike, bridge or private way, or for any other purpose, cause any inconvenience or injury to the lands, buildings or rights of any person or persons, or of any corporation, public or private, or shall continue any such inconvenience or injury, already existing, for the space of sixty days after notice of the same, in writing, is given to some officer of such railroad corporation; or if any railroad corporation shall, in constructing or maintaining their railroad, throw any obstruction upon, or cause any obstruction or injury to any highway, bridge, turnpike or private way; or permit any such obstruction or injury, already existing, to continue for the space of sixty days after notice of the same has been given as aforesaid, in any such case, the person or persons, or corporation shall have and maintain an action on the case and recover reasonable damages for the injury done. *Provided*, that in any case of obstruction or injury to any highway, turnpike, private way or bridge, as aforesaid, by any railroad corporation, such railroad corporation may, within sixty days after notice of such obstruction or injury, in writing, given as aforesaid, apply to the road commissioners of the county in which such case may occur, and said commissioners shall notify all interested, and examine such obstruction or injury; and if practicable, lay out a substitute for such highway, turnpike, private way or bridge, and assess damages for the land taken to build such substitute over, in the same way and manner as is authorized by law in laying out roads; and if such railroad company shall pay for the land so taken, and build at their own expense such substitute within such time, and in such manner as said road commissioners shall order and direct, and pay the expense of the commissioners, and file a written certificate, signed by said road commissioners, that said railroad corporation have so built such substitute, and paid all expenses as aforesaid, in the office of the clerk of the court of common pleas in said county; then no such action on the case shall be sustained. (*Laws of 1847, chap. 486.*)

CATTLE GUARDS AND FENCES.

SEC. 45. Every railroad corporation in this State shall make and maintain all necessary cattle guards, cattle passes and farm crossings, for the convenience and safety of the land owners along the line of their road; and in case the corporation and land owner cannot agree upon the place, number or manner in which such guards, passes or crossings should be constructed, the land owner may by petition apply to three disinterested justices of the peace, two of whom shall be of the quorum, neither of whom shall be resident in the same town with the applicant, or who shall have been previously advised with by the petitioners in relation to the matter to

be submitted, who shall notify the parties by giving each at least fifteen days notice in writing of the time and place they will meet to consider said petition, and shall examine and determine the place or places where such passes, guards or farm crossings and the time in which the same shall be constructed, and make a report thereof in writing, and file a copy of their report with the town clerk of the town where said land is situated; and in case the corporation shall refuse or neglect for sixty days after the report is filed as aforesaid, and after the time fixed for building the same by said justices, to construct passes, guards and crossings, agreeably to the report made as aforesaid, they shall be liable to a fine of five hundred dollars, and a fine of one hundred dollars for each month they shall refuse or neglect to construct the same, after the expiration of said sixty days: *provided*, that the said justices to whom said land owner shall apply as aforesaid shall be selected as follows: one by the land owner, one by the railroad corporation, and the third by the two first, selected as aforesaid: and if said railroad corporation shall refuse to select one of said justice,s it shall be the duty of the selectmen of the town in which the land is situated to name the person in behalf of said corporation; *provided, however*, that the provisions of this section shall not apply in any cases where the corporation have settled with the land owner in relation to such guards, passes and farm crossings. (*Laws of 1850, chap. 593, sec. 5.*)

• SEC. 46. If any railroad corporation shall neglect to keep a sufficient and lawful fence on each side of their road, any person against whose land such fence is insufficient, may notify the agent of such corporation thereof, and if such fence shall not be made sufficient within twenty days after such notice, the owner of such land may make or repair such fence, and may thereupon recover of said corporation in an action of assumpsit, double the amount necessarily expended in making or repairing the same as aforesaid; *provided, however*, that the foregoing provisions of this section shall not apply to any case where such corporation shall have settled with and paid the owner of such land for building and maintaining such fence. (*R. S., chap. 146, sec. 6.*)

SEC. 47. If any person having been thus settled with and paid for keeping any such fence in repair, shall neglect so to do, such railroad corporation may make such repairs and recover the necessary expense thereof of the person liable. (*R. S., sec. 7.*)

ENGINES AND CARS PASSING HIGHWAY CROSSINGS.

SEC. 48. No railroad corporation shall run their engine, cars or train across any public highway in or near any compact part of any town or city in this State at a greater speed than six miles per hour. (*Laws of 1850, chap. 965, sec. 1.*)

SEC. 49. And no railroad corporation shall pass and repass with engine or cars any highway as aforesaid, for the purpose of

lected and refused to make such necessary accommodation for the public, the same shall be paid by such company, and may be recovered in the name of such petitioners by action for money laid out and expended. (*Laws of 1850, chap. 953, sec. 6.*)

SEC. 62. Every railroad corporation in this State shall establish from time to time, and cause to be posted up in their depots, the rates or tariffs of tolls between the several stations on such road, and between such stations and the stations of other roads with which they have a joint business connection for the conveyance of freight and passengers, and the rates thus established for the reception and delivery of passengers and freight shall be the same for all persons, and for the like descriptions of freight between such stations, and no rates of fare or freight shall be at any time advanced except on thirty days notice established and posted as aforesaid. (*Laws of 1852, chap. 1277, sec. 1.*)

SEC. 63. No person shall be allowed to pass over any railroad in this State without paying the fare thus established, except the stockholders going to or returning from the annual or any special meeting of said road; the directors, superintendent, treasurer and clerk of said company and of roads having a business connection for freight and passengers on said road; persons in charge of mails and expresses, and persons poor and in misfortune who are unable to pay said fare and to whom passes have been granted: *provided, however*, that nothing in this act shall prohibit the sale of season tickets by the quarter or other specified time at reduced rates, and the transportation of passengers at agricultural fairs and on other public occasions, of military and other organized companies, and the running of special trains for companies and parties of pleasure at rates established for such occasions. (*Laws of 1852, chap. 1277, sec. 2.*)

SEC. 64. It shall be the duty of the conductor on each railroad to collect the tickets of all passengers, or require the fare to be paid as thus established over the whole or any portion of said road, as the case may be; and in case of refusal or neglect to pay such fares, it shall be lawful for said conductor to use such force as may be necessary to remove such person from the train, and the conductor shall have the same power to command assistance in removing such person as sheriffs by law have when serving process, and under the same penalty in case of refusal. And any conductor, ticket master or other officer of any road who shall knowingly violate the provisions of this act relative to the sale of tickets and the collection of fares as thus established, shall be liable to a fine of not less than one nor more than ten dollars. (*Laws of 1852, chap. 1277, sec. 3.*)

SEC. 65. Prosecutions for penalties under this act (the three preceding sections) shall be commenced within six months from the time of the offence committed. (*Laws of 1852, chap. 1277, sec. 4.*)

SEC. 66. If the life of any person not in the employment of the corporation shall be lost by reason of the negligence or careless-

ness of the proprietor or proprietors of any railroad, or by the unfitness or gross negligence, or by the carelessness of their servants or agents in this State, such proprietor or proprietors shall be liable to a fine not exceeding five thousand dollars nor less than five hundred dollars, to be recovered by indictment to the use of the executor or administrator of the deceased person, for the benefit of his widow and heirs, one moiety thereof to go to the widow and the other to the children of the deceased; but if there shall be no children, the whole shall go to the widow, and if no widow, to his heirs, according to the law regulating the distribution of intestate personal estates among heirs. (*Laws of 1850, chap. 953, sec. 7.*)

SEC. 67. The treasurer and clerk of any railroad corporation in the State, except such whose road is connected with a railroad in some other state by the acts of two or more states, shall reside within this State, and all the books, papers and funds of said corporation, with the foregoing exception, shall be kept therein, or shall provide for the payment of all dividends to the stockholders in this State at the place of business of the corporation in this State. (*Laws of 1850, chap. 953, sec. 9.*)

SEC. 68. The directors of every railroad corporation shall from year to year make report to the legislature, under oath, of their acts and doings, receipts and expenditures, under the provisions of their charter, which report shall be made in the month of May in each year, and shall contain full information upon the several items hereinafter enumerated, to wit:—

Returns of the
Capital stock,
Increase of capital since last report,
Capital paid in per last report,
Capital paid in since last report,
Total amount of capital stock paid in,
Funded debt per last report,
Funded debt paid since last report,
Funded debt, increase of, since last report,
Total present amount of funded debt,
Floating debt per last report,
Floating debt paid since last report,
Floating debt, increase of, since last report,
Total present amount of floating debt,
Average rate of interest per annum paid during the year,
Maximum amount of debt for each month during the year, viz:
January, February, March, April, May, June, July, August,
September, October, November, December,

COST OF ROAD AND EQUIPMENTS.

For graduation and masonry per last report,
For graduation and masonry paid during the past year,

Total amount expended for graduation and masonry,
 For wooden bridges per last report,
 For wooden bridges paid during the past year,
 Total amount expended for wooden bridges,
 For superstructure, including iron, per last report,
 For superstructure, including iron, paid during the past year,
 Total amount expended for superstructure, including iron,
 For stations, buildings and fixtures, per last report,
 For stations, buildings and fixtures paid during the past year,
 Total amount expended for stations, buildings and fixtures,
 For land, land damages and fences per last report,
 For land, land damages and fences paid during the past year,
 Total amount expended for land, land damages and fences,
 For locomotives per last report,
 For locomotives paid during the past year,
 Total amount expended for locomotives,
 For passenger and baggage cars per last report,
 For passenger and baggage cars paid during the past year,
 Total amount expended for passenger and baggage cars,
 For merchandise cars per last report,
 For merchandise cars paid during the past year,
 Total amount expended for merchandise cars,
 For engineering per last report,
 For engineering paid during the past year,
 Total amount expended for engineering,
 For agencies and other expenses per last report,
 For agencies and other expenses paid during the past year,
 Total amount expended for agencies and other expenses,
 Total cost of road and equipment,

CHARACTERISTICS OF ROAD.

Length of road,
 Length of single main track,
 Length of double main track,
 Length of branches owned by the company, stating whether they have single or double track,
 Aggregate length of sidings and other tracks, excepting main track and branches,
 Weight of rail per yard in main road,
 Weight of rail per yard in branch road; specify the different weight per yard,
 Maximum grade, with its length, in main road,
 Maximum grade, with its length, in branch roads,
 Average grade per mile of main road,
 Total rise and fall in the main road,
 Total rise and fall in the branch roads,
 Shortest radius of curvature, with length of curve in main road,

Shortest radius of curvature, with length of curve in branch roads,

Total degrees of curvature in main road,

Total degrees of curvature in branch roads,

Total length of straight line in main road,

Total length of straight line in branches,

Aggregate length of wooden truss bridges,

Aggregate length of all other wooden bridges,

Aggregate length of stone and iron bridges,

Whole length of road unfenced on both sides,

Number of public ways crossed at grade,

Number of railroads crossed at grade,

Remarks,

Way stations for express trains,

Way stations for accommodation trains,

Flag stations,

Whole number of way stations,

Whole number of flag stations,

DOINGS DURING THE YEAR.

Miles run by passenger trains,

Miles run by freight trains,

Miles run by other trains,

Total miles run,

Number of passengers carried in the cars,

Number of passengers carried one mile,

Number of tons of merchandise carried in the cars,

Number of tons of merchandise carried one mile,

Number of passengers carried one mile to and from other roads,

Number of tons of merchandise carried one mile to and from other roads,

Rate of speed adopted for express passenger trains including stops,

Average rate of speed actually attained by the express passenger trains, including stops and detentions,

Rate of speed adopted for accommodation trains,

Rate of speed actually attained by accommodation trains, including stops and detentions,

Average rate of speed actually attained by special trains, including stops and detentions,

Average rate of speed adopted for freight trains, including stops and detentions,

Estimated weight in tons of passenger cars (not including passengers,) hauled one mile,

Estimated weight in tons of merchandise cars (not including freight,) hauled one mile,

ESTIMATED INCREASED VALUE BEYOND DEPRECIATION, VIZ :

Road and bridges,
Buildings,
Engines and cars,

NUMBER OF FREE PASSENGERS THE LAST YEAR, VIZ :

Number of directors and officers (except superintendent) of the corporation when not engaged in the immediate management of the cars and care of the road,

Number of persons connected with and in the employment of other corporations,

Number of other persons, except stockholders when attending meetings of the corporation. (*Laws of 1850, chap. 953, sec. 10.*)

SEC. 69. If any railroad corporation shall violate any of the provisions of this act (sections 20, 45, 55, 61, 66, 67, 68 and 70 of this chapter) or shall permit any such violation, for which violation no mode of punishment is provided, such corporation shall be liable to an action upon the case in the name of any party injured thereby, to recover his damage, and shall also be liable to indictment and fine not exceeding one thousand dollars for each offence. And if any officer, agent or servant of any railroad corporation shall knowingly violate any of the provisions of this act where no other remedy is provided against such officer, agent or servant, he shall be liable to indictment and fine not exceeding one hundred dollars, according to the nature and aggravation of the offence. (*Laws of 1850, chap. 953, sec. 11.*)

SEC. 70. Each passenger over any railroad shall be entitled to have taken with him by the same train, as part consideration of the fare paid by him, a reasonable amount of personal baggage, exclusive of specie and bills: *provided*, that no road shall be required to carry such baggage to an amount valued beyond one hundred dollars without notice being given and extra charges paid for such risk and liability; and such corporation shall be liable for the safe transportation and delivery of all such baggage at the station for which the same was received, or for the payment of the value thereof, if they neglect or refuse to pay for such baggage as aforesaid, on demand after the expiration of said thirty days. (*Laws of 1850, chap. 953, sec. 12.*)

CHAPTER 151.

OF THE PROPRIETORS OF COMMON LANDS.

COMPILED FROM

Chapter 143 of the Revised Statutes.

" 334, Laws of 1846.

SECTION

1. Proprietors may make by-laws.
2. Meetings, where to be holden.
3. Officers, their choice and duties.
4. " where to reside.
5. Voting, right of, regulated.
6. Assessments may be made, how.
7. Warrant to be given to collector.
8. Notice of assessment, how given.
9. If assessment unpaid, right may be sold.
10. Mode of sale and conveyance.
11. Sales, where to be made.
12. Share of delinquent only to be sold.
13. Redemption, time and mode of.
14. If not redeemed, deed to be given.
15. Ratification of grants and votes.
16. Clerk to furnish copies of votes.

SECTION

17. Proprietary records to be lodged with town clerk, when.
18. If concerning two towns, to be lodged in the oldest town.
19. To be lodged with secretary, when.
20. When may be recalled by town.
21. Penalty for wilfully retaining records.
22. Copies of records, how certified.
23. Effect of such copies as evidence.
24. Fees for copies.
25. Penalty for neglect to make copies.
26. Penalty for destroying records.
27. Meetings of Masonian proprietors.
28. When annual meeting fails, proprietors may have meeting called by a justice of the peace.

SECTION 1. The proprietors of common lands in any town in this State, at any legal meeting thereof, may provide a mode for calling future meetings, choosing officers, laying assessments and transacting all other business concerning such propriety, and may establish by-laws therefor.

SEC. 2. All proprietary meetings and adjournments thereof, for any town having fifty or more families settled and resident therein, shall be holden in such town; and for all towns having a less number of families settled therein, in the nearest town in the same county having such number, or in the shire town of the county.

SEC. 3. At any legal meeting holden for that purpose, said proprietors may choose a clerk and treasurer, and such other officers as they shall deem necessary to manage the affairs of such propriety, and prescribe their powers and duties, which officers shall be sworn to the faithful discharge of their respective duties, and shall hold their offices until others are duly chosen and qualified in their stead.

SEC. 4. All proprietary officers aforesaid shall be inhabitants of this State, and if any such officer shall cease to be such inhabitant, his said office shall thereupon cease. The proprietors' clerk for each town having fifty or more families, shall reside in such town.

SEC. 5. Each proprietor at any proprietary meeting shall be entitled to vote upon the shares by him held, as follows: for two shares or less, one vote each; for all shares not exceeding ten, one vote for two shares: for every four shares exceeding ten and not exceeding thirty, one vote; for every six shares exceeding thirty, and not exceeding sixty, one vote; and for every eight shares exceeding sixty, one vote. If two or more persons are the joint proprietors of one or more shares, they or any one of them may vote according to their interest therein in the same manner.

SEC. 6. Said proprietors at any legal meeting may vote to raise such sum of money as may be necessary to defray all proprietary charges, and choose persons to assess and collect the same, and the interest and estate of every proprietor in all the lands lying in common and not in severalty, shall be liable to pay such assessment.

SEC. 7. The assessor shall apportion such assessment among the original rights of the proprietors thereof, and commit the list thereof to the collector with a warrant or precept under seal setting forth his duty, the time for completing the collection, and to whom the money is to be paid.

SEC. 8. The collector shall give notice of such assessments and of the time and place of payment thereof, and that if the same are not paid accordingly, the money will be levied by the sale of so much of the interest and property of each delinquent proprietor as will pay the same and all expenses, by publishing such notice in the New Hampshire Patriot and State Gazette three weeks successively, the last publication of which shall be fourteen days at least before the day fixed therein for the payment of such assessments, and by posting up a like notice in the town or place wherein said lands lie (if within any settled town,) five weeks at least before said day of payment, the expense of which shall be paid by said proprietors.

SEC. 9. If such assessment shall not be paid by any proprietor at the time specified in such notice, the collector shall advertise for sale so much of the delinquent proprietor's land or right, as will pay said assessment and all incidental expenses, to be sold at public auction to the highest bidder at such time and place as shall be therein specified, by publishing the notice of such sale, together with the name of the proprietor and the amount of the assessment, in the newspaper aforesaid, three weeks successively, the last publication of which shall be seven days at least before the day of sale, and by posting up a like advertisement for the same space of time in the town wherein said land lies, if such town is settled.

SEC. 10. If such assessment and all incidental charges shall not be paid at or before the time of sale, the collector shall proceed to make sale, at public auction, of so much of said delinquent's land or right as will pay the same and incidental charges as aforesaid.

SEC. 11. All such auctions shall be holden in the same town

in which the proprietors' meetings are required to be holden as aforesaid, and shall take place between the hours of ten in the forenoon and six in the afternoon.

SEC. 12. If more than one person is interested in any right or share, and any such part owner shall be delinquent in the payment of any assessment as aforesaid, his interest in such right or share may be sold in the manner hereinbefore provided.

SEC. 13. Each proprietor of lands or rights so sold, his heirs or any person interested therein, may redeem the same at any time within one year from the sale thereof by paying or tendering to the collector, his executor or administrator, or in his absence at the usual place of abode of said collector, his executor or administrator, a sum of money equal to such assessment and the incidental charges of such sale, and twelve per cent. per annum interest thereon from said day of sale, which shall be for the benefit of the purchaser.

SEC. 14. If said lands or rights shall not be redeemed within one year from said day of sale as aforesaid, the collector shall execute to the purchaser thereof a good and valid deed of conveyance thereof; but no such deed shall be executed until the time of redemption has expired. If any proprietors' collector shall die, remove from the State, or in any way be rendered incapable of completing the duty of his said office, his successors respectively may complete the same.

SEC. 15. Said proprietors at any legal meeting may confirm, ratify and establish any grants, conveyances, votes and transactions by them designed and intended to be made, done, performed or transacted agreeably to such design, intention and aim, notwithstanding any want of legal form or proper terms or any defect in relation thereto.

SEC. 16. Every proprietors' clerk, upon payment or tender of the fees therefor, shall furnish to any person applying, a true and attested copy of any proprietary record in his possession.

SEC. 17. If in any town having fifty families or more settled therein, there is no clerk of the proprietors of the common lands lying in such town, residing therein, the town clerk thereof shall demand and receive the proprietary records of any person having the possession thereof, and shall keep the same with the records of such town, and any person having possession thereof shall deliver the same to such town clerk.

SEC. 18. If such proprietary records relate to lands lying in more towns than one, they shall be deposited in the office of the town clerk of the town first incorporated, or in the office of the secretary of state.

SEC. 19. When the propriety of any town in this State is dissolved, or when the meeting of the proprietors of any common and undivided lands shall be dissolved and the clerk thereof shall resign, decease or become incapacitated, any person, the town clerk of any town having fifty or more families excepted, having in his

possession any record or document appertaining to such propriety, shall file and deposit it with the secretary of state who may demand and receive the same.

SEC. 20. Whenever there shall be fifty families in any such town, and such town shall vote that the town clerk shall keep such records and documents, or whenever such proprietors shall duly appoint a clerk thereof, the secretary shall deliver to such town clerk or proprietors' clerk on demand, the records and documents to him belonging, taking his receipt therefor.

SEC. 21. If any person shall wilfully retain or keep any records or documents appertaining to the propriety of any common and undivided lands, contrary to the provisions of the four preceding sections, he shall forfeit for each offence one hundred dollars, to the use of any person who will sue therefor, or be punished by fine not exceeding five hundred dollars.

SEC. 22. While the records and documents aforesaid are in possession of the secretary of state, or of any town clerk, he shall make out, certify and deliver copies of any part thereof when thereto required, upon the payment or tender of the legal fees therefor.

SEC. 23. All copies of the records and documents aforesaid, when made and certified as aforesaid, shall be as effectual to all intents and purposes as copies by other certifying officers.

SEC. 24. The fees for any copies aforesaid shall be the same as are by law allowed to the clerks of the court of common pleas for copies.

SEC. 25. If the secretary of state or any town or proprietors' clerk shall refuse or neglect within a reasonable time after the payment or tender of his fees therefor, to make out, certify and deliver to any person a copy of any such record or document in his possession, he shall forfeit one hundred dollars to any person who will sue therefor, and be liable for all damages sustained by such neglect or refusal.

SEC. 26. If any person shall wilfully destroy any proprietary record or document, or shall aid therein, or shall carry or aid in carrying any such record or document out of this State, he shall be liable for damages to any person injured thereby, and such offence shall be a misdemeanor for which the offender may be indicted and punished accordingly.

SEC. 27. The owners of the common and undivided lands in this State purchased of John Tufton Mason deceased, commonly called the Masonian proprietors, may hold their proprietary meetings at Portsmouth in this State for transacting any business relating to said propriety; and all votes, acts and doings of said proprietors at such meetings passed, done or transacted, shall be as valid for all purposes as if passed, done or transacted at a meeting duly holden in the town or county in which the lands to which such votes, acts or doings relate, are situated. Such meetings,

except as to the place of holding the same, shall be holden agreeably to the provisions of the laws regulating proprietors' meetings.

SEC. 28. When by mistake or accident, the proprietors of common lands in this State shall have failed to hold their annual meeting, or where no mode for calling special meetings shall have been provided according to the provisions of the one hundred and forty-third chapter of the revised statutes to which this is in addition, (this chapter,) three or more of the proprietors of said common lands may apply, in writing, to any justice of the peace in this State, requesting him to call a meeting of the proprietors of said common lands. And such justice of the peace shall thereupon issue his warrant calling the meeting requested in such application, at such time and place not inconsistent with the provisions of this chapter, as he shall judge proper; which application and warrant shall be published three weeks successively prior to holding such meeting, in some newspaper printed in the county in which a major part of such proprietors shall reside. And said meetings thus called and held, shall be taken and deemed to be valid, and when assembled, shall be governed in all respects according to the requirements of the said one hundred and forty-third chapter of the revised statutes. (*Laws of 1846, chap. 334.*)

CHAPTER 152.

OF VOLUNTARY ASSOCIATIONS.

COMPILED FROM

Chapter 145 of the Revised Statutes.

" 325, Laws of 1846.

SECTION

1. Voluntary associations, for what purposes may be formed.
2. Voluntary associations, how formed.
3. Meetings, how called and holden.
4. Name of association assumed.
5. Notice thereof to be published.
6. By-laws, how adopted.

SECTION

7. Powers of such associations.
8. Property of association limited.
9. Money raised as agreed upon.
10. Stock may be divided into shares.
11. Assessments, how made and collected.
12. Records, how kept and used.
13. Members personally liable.

SECTION 1. Any persons may voluntarily associate themselves together, and have all the powers of a corporation, for either of the following purposes:

1. To establish and maintain literary and scientific institutions:
2. To promote knowledge and skill among the members by the establishment of a library, lyceum, musical, agricultural, literary or scientific association:

3. To supply any place with water by means of an aqueduct :
4. To organize a fire engine company or a mutual fire insurance company :
5. To provide, hold and keep in repair suitable grounds and other conveniences for the burial of the dead, or for a public walk or common :
6. For the purpose of promoting the cause of temperance :
(*R. S., sec. 1, and laws of 1846, chap. 325.*)

SEC. 2. Every such association shall be formed by written articles specifying the objects of the association, and the conditions on which it is formed, and subscribed by each member thereof.

SEC. 3. The first meeting shall be notified, organized and holden in the manner prescribed in the articles of association.

SEC. 4. Any such association may adopt a corporate name, either in the original articles or by vote at the first meeting thereof, and may at any regular meeting adopt a corporate seal, and alter the same at pleasure.

SEC. 5. Every such corporation shall give public notice of its formation, name and object, by publishing such notice three weeks successively in some newspaper printed in the county in which such association is formed, or if no paper is published in such county, then in some adjoining county, and also by posting a like notice in one or more public places in the town in which such association is formed and located.

SEC. 6. Any such corporation, when organized, may adopt all such by-laws and regulations as may be thought expedient, not repugnant to the laws of this State :

1. To regulate the mode of notifying, and the times and places of holding the meetings thereof :

2. To regulate the number of officers of the corporation, their powers and duties, and the mode of choosing them :

3. To provide the mode of admitting and discharging members :

4. To provide for the laying of assessments, and for selling or forfeiting the rights or shares of members for the non-payment thereof :

5. And all other by-laws and regulations necessary in promoting the object of the association.

SEC. 7. Every such corporation, when organized, may sue and be sued, may appear, prosecute and defend to final judgment and execution in any court, and may purchase and hold, lease or convey real or personal estate necessary to promote the objects of the association, and which shall be devoted exclusively to such object.

SEC. 8. The annual value or income of the property of any such corporation shall not exceed at any time the amount of one thousand dollars.

SEC. 9. Any such corporation may raise money of its members in any manner agreed upon by the articles of association.

SEC. 10. Such corporations may by their articles of association or by-laws, or by vote, divide their stock or corporate property

into shares, and determine the terms on which and the manner in which such shares shall be holden and conveyed.

SEC. 11. When the stock or corporate property shall be so divided into shares, any such corporation at any legal meeting notified for that purpose may raise money by assessment on the shares or rights of the members in proportion to their several interests, and the payment of such assessments may be enforced by the sale or forfeiture of the estate of any member in such corporation, in such manner as the corporation may provide, but no other estate of such member shall be liable therefor.

SEC. 12. The clerk or secretary of every such corporation shall keep a fair record of all the proceedings of such corporation, in a book provided for that purpose; and such records may be read in evidence in any court in any case where the interests of such corporation are concerned.

SEC. 13. Every member of such corporation shall be personally liable for the debts thereof lawfully contracted, and may have contribution from the other members thereof for all payments so made by him on account of the corporation, either by action for money paid or by a bill in equity at his election.

CHAPTER 153.

OF RELIGIOUS SOCIETIES.

COMPILED FROM

Chapter 144 of the Revised Statutes.

" 719, Laws of 1848.

SECTION

1. Religious societies, how formed.
2. Powers and rights of such societies.
3. Society may make by-laws.
4. Members may leave at pleasure.
5. Assessments made and collected.
6. Parishes may appoint agents.
7. Donations to unincorporated society, how holden.
8. Church officers may take, when.
9. Ministers of, when deemed officers.

SECTION

10. Minister may hold parsonage.
11. Conveyance by society, when valid.
12. " " minister, " "
13. Committee, their choice and powers.
14. Income of property limited.
15. Society of Friends, property how held by.
16. May sell meeting houses.
17. Notice to be published.
18. Proceeds of sale, how divided.

SECTION 1. Any persons may associate themselves together by written articles signed by each member, form a religious society, assume a corporate name, and choose a clerk, who shall be duly sworn; and having recorded their proceedings, name and intentions in a book of records to be kept by said clerk, and having

published the same in some newspaper, if any there be, in the county in which such society is formed, otherwise in some adjoining county, they shall be constituted and become a body politic and corporate.

SEC. 2. Such corporation shall possess and enjoy all the powers, privileges and immunities, and shall be subject to all the liabilities incident to corporations of a similar nature; may take, hold and possess by purchase, gift, grant, devise or otherwise, any real or personal estate for the purpose of erecting and keeping in repair a house of public worship, a parsonage house and other buildings necessarily connected therewith, and for supporting the ministry in such society; and may improve, sell, convey and dispose of the same for the sole use and benefit of such society; *provided* that the annual value or income of all the estate of such society shall not exceed two thousand dollars.

SEC. 3. Such society may have and use a common seal, and may alter and renew the same at pleasure; may provide for the calling and holding of meetings and the admission of members; may choose all necessary officers and prescribe their duties, and make all by-laws and regulations, not repugnant to the laws of this State, which may be deemed necessary or expedient for the due government of such society, and the proper management of its funds.

SEC. 4. No person shall be compelled to join or support any such society, without his express consent first had and obtained; and any person may separate from any such society by leaving with the clerk thereof a written notice by him signed, of his intention so to separate, and paying all legal assessments and arrearages from him then due to such society.

SEC. 5. Such society, at any legal meeting notified and holden for that purpose, may assess and raise money by taxes upon the polls and ratable estates of the members thereof, and may collect and appropriate the same for the purposes aforesaid, and the assessors and collectors, in assessing and collecting any such tax, shall have the same powers and be subject to the same penalties as similar town officers in like cases.

SEC. 6. The members of every parish and religious society may by vote appoint one or more agents or attorneys to appear for and represent them in any suit at law, and upon any other occasion.

SEC. 7. In case any donation, gift or grant shall be made to any unincorporated religious society, such society shall have the like power to manage, use and employ the same, according to the terms and conditions on which the same may be made, as incorporated societies now have or may hereafter have by law; to elect suitable trustees, agents or officers therefor; and to prosecute and sue for any right which may vest in them in consequence of such donation, gift or grant; and such society shall be a corporation, so far as may be necessary for the purposes expressed in this

section ; *provided* that the income of the donations, gifts or grants to any one of such unincorporated religious societies shall not exceed the sum of two thousand dollars a year.

SEC. 8. The trustees, deacons, church wardens or other similar officers of all churches or religious societies, if citizens of the United States, shall be deemed bodies corporate for the purposes of taking and holding, in succession, all grants and donations, whether of real or personal estate, made either to them and their successors, or to their respective churches, or to the poor of their churches.

SEC. 9. In all cases where the ministers, elders or vestry of any church shall, in the grants and donations mentioned in the preceding section, have been joined with such deacons or church wardens, as donees or grantees, such officers and their successors, together with the deacons or church wardens, shall be deemed the corporation, for the purposes of such grants and donations.

SEC. 10. The minister of every church or religious society of whatever denomination, if a citizen of the United States, shall be capable of taking in succession any parsonage land granted to the minister and his successors, or to the use of the ministers, or granted by any words of the like import, and may prosecute and defend in all actions touching the same.

SEC. 11. No conveyance of the lands of any church shall be effectual to pass the same, if made by the trustees or deacons without the consent of the church or of a committee of the church appointed for that purpose, or if made by the church wardens, without the consent of the vestry.

SEC. 12. No conveyance made by any minister of lands held by him in succession, shall be valid any longer than he shall continue to be such minister, unless such conveyance shall be made with the consent of the town, parish or religious society of which he is minister, or unless he be a minister of an episcopal church and shall make the conveyance with the consent of the vestry.

SEC. 13. The several churches, other than those of the episcopal denomination, are authorized to choose committees for the purpose of settling the accounts of the trustees, deacons and other church officers, and, if necessary, to commence and prosecute any suits in the name of the church against the said trustees, deacons or other officers, touching the same.

SEC. 14. The income of any such grant or donation made to or for the use of any church, shall not exceed the sum of two thousand dollars a year, exclusive of the income of any parsonage lands granted to or for the use of the ministry.

SEC. 15. The overseers of each monthly meeting of the people called Friends or Quakers, shall be a body corporate for the purpose of taking and holding in succession all grants and donations of real or personal estate made to the use of such meeting, or to the use of any preparative meeting belonging thereto, and to alien or manage such real and personal estate according to the terms

and conditions of the grants and donations, and to prosecute and defend in any action touching the same ; *provided*, that the income of the grants and donations to any one of such meetings, for the uses aforesaid, shall not exceed the sum of five thousand dollars a year.

SEC. 16. Whenever any meeting house in the State shall cease to be occupied by the proprietors thereof as a place of public worship for the space of two years, it shall be lawful for said proprietors, at a meeting called for that purpose, by a vote of a majority present, to sell said house at public auction, and for this purpose to appoint a committee to make such sale and execute a conveyance to the purchaser, giving such notice of the time and place of sale as shall be reasonable, in no case less than fifteen days. (*Laws of 1848, chap. 719, sec. 1.*)

SEC. 17. Such meeting may be called by any three of the proprietors, by publishing a notice thereof three weeks successively in some newspaper in the county in which such meeting house is located, the last publication to be at least twenty days before said meeting. And if there should be no such paper published in such county, then such notice to be published in some paper in an adjoining county. (*Laws of 1848, chap. 719, sec. 2.*)

SEC. 18. The proceeds arising from the sale of such house shall be paid to said committee and by the committee divided amongst the proprietors thereof according to their interest, such interest to be determined by a committee of not less than three nor more than five disinterested persons chosen by the proprietors for that purpose. (*Laws of 1848, chap. 719, sec. 3.*)

CHAPTER 154.

OF FIRE INSURANCE COMPANIES.

COMPILED FROM

Chapter 501, Laws of 1847.

" 999, " " 1850.

" 1100, " " 1851.

" 1111, " " 1851.

" 1279, " " 1852.

SECTION

1. Company may limit its business to towns.
2. Insured not liable to be assessed beyond premium notes.
3. Companies may insure against damage by lightning.

SECTION

4. Insurance companies in other states, doing business in this, to be subject to the same laws and penalties.
5. Insurance companies in this State, or their agents doing business in another state subject to certain

SECTION

requirements, will subject the insurance companies of such state to like requirements.

6. Not lawful for any person to act as agent, &c., of any foreign insurance company till they have complied with the law; penalty for violation.
7. Commissioners to be appointed.

SECTION

8. Commissioners removable at pleasure.
9. Duties of commissioners.
10. Compensation of commissioners.
11. May examine officers on oath.
12. Injunction to be issued forthwith.
13. Injunction, on hearing how modified.
14. Act not to apply to chapter 152 of this compilation.

SECTION 1. Any mutual fire insurance company organized, or which may hereafter organize, according to the provisions of chapter one hundred and forty-five of the revised statutes, (one hundred and fifty-two of this compilation) may by a vote of such company limit the company to any town in this State, which vote shall be recorded, and said company shall thereupon be forever barred from insuring any property which is not situated within the limits of such town. (*Laws of 1850, chap. 999.*)

SEC. 2. The thirteenth section of chapter one hundred and forty-five of the revised statutes (one hundred and fifty-two of this compilation) shall not apply or be in force with respect to mutual fire insurance companies, which now are or may hereafter be formed agreeably to the provisions of said chapter, or be so construed as to render the members of such insurance companies liable for losses upon property insured in such companies beyond the amount of their deposit notes. (*Laws of 1847, chap. 501.*)

SEC. 3. All fire insurance companies in this State shall have the power and right to insure against damage to property by lightning, whether said damage be caused by burning or otherwise. (*Laws of 1851, chap. 1100, sec. 1.*)

SEC. 4. Whenever by the laws now existing in, or which may hereafter be enacted by any of the United States, other than this State, any taxes, fines, penalties, deposits of money or of securities, statements or other obligations or requirements of any description whatever, are or shall be imposed upon any mutual insurance company or companies incorporated by or organized under the laws of this State, and transacting business in such other state; or upon the agents of any such mutual insurance company or companies, then so long as such law or laws shall continue in force, the same taxes, fines, penalties, deposits, statements, obligations and requirements which under such law or laws are or shall be imposed upon any mutual insurance company or companies of this State, shall be imposed upon all mutual insurance companies doing business in this State, which are incorporated by, or organized under the laws of such other state, or states, and upon all agents of such mutual insurance companies. And such insurance company or their agents shall, from and after the first day of January next, be liable to pay the same taxes, fines and penalties, to make the same deposits and statements, and be in all respects under

and subject to the same obligations and requirements as are or shall be imposed upon any of the mutual insurance companies of this State, or upon their agents by the State, by, or under the laws of which, said company is incorporated or organized. (*Laws of 1852, chap. 1279, sec. 1.*)

SEC. 5. If, under or by virtue of the laws of such other state, any mutual insurance company incorporated by, or organized under the laws of this State, or its agents, is or shall be required to make any deposit, oaths or statements to any officer of said state, not known or existing in this State, or to pay any taxes, fines or penalties to such officer, then and in every such case, the mutual insurance companies of such state, or their agents, doing business in this State, shall make the same deposits with, and statements to the secretary of this State, and shall be liable to pay the like taxes and penalties to the treasurer of this State. (*Laws of 1852, chap. 1279, sec. 2.*)

SEC. 6. It shall not be lawful for any person to act within this State, as agent or otherwise, in receiving or procuring application for insurance, or to issue policies of insurance, or in any manner to aid in transacting the business of any mutual insurance company or companies, not incorporated by or organized under the laws of this State, until they have in all respects complied with the provisions of this act; and for every such violation the person so offending shall be subject to a penalty of five hundred dollars, to be sued for and recovered in the name of the State by the State's attorney, or by the solicitor of the county in which said offence shall be committed; and one half of the said penalty when recovered shall be paid into the treasury of this State, and the other half to the informant of such violation; and in case of non-payment of such penalty, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof. (*Laws of 1852, chap. 1279, sec. 3.*)

SEC. 7. The governor, with advice of the council, shall appoint three suitable persons residing within the State, no one of whom shall be a director or hold any other office in any insurance company in this State, or shall have been such director, or held any other office in any such insurance company, within the space of one year prior to his appointment, as insurance commissioners, who shall hold their office for one year and until others are duly appointed and commissioned in their stead. (*Laws of 1851, chap. 1111, sec. 1.*)

SEC. 8. Said commissioners shall be removable, and the vacancies may be filled at pleasure by the governor and council. (*Laws of 1851, chap. 1111, sec. 2.*)

SEC. 9. It shall be the duty of some one of said commissioners, once at least in each year, without previous notice to the company, and as much oftener as the governor may require, to make personally a full examination into the condition of each company

and the management of its affairs, inspect all their books, ascertain the amount of property at risk, the amount of premium notes constituting the capital stock of each, the amount of losses in each year, the sums assessed, the amount of indebtedness, the salaries or emolument of the president, secretary, treasurer, and each director, and the whole amount each individual officer has received or is to receive for his services per annum, the expense of adjusting losses, the sum paid or allowed by the company for travel and per diem, to officers or agents while attending to the same, the sum paid agents for each application taken by the company, the rate per cent. and the aggregate amount allowed agents for collecting assessments, and generally to make all such inquiries as may be necessary to obtain a full and thorough knowledge in detail of all its affairs, and whether it has violated any provisions of its charter, and to report the condition of each insurance company to the legislature annually during the first week of its session. (*Laws of 1851, chap. 1111, sec. 3.*)

SEC. 10. Such commissioners shall receive from each company so examined, ten cents per mile each way for his actual travel to make such examination, and two dollars for each day necessarily employed in making such examination and report; but if there is more than one company in any place he shall not tax more than one travel nor more than his actual travel from one place of examination to another. (*Laws of 1851, chap. 1111, sec. 4.*)

SEC. 11. Any such commissioner may examine under oath all the officers, agents or servants of any insurance company, or any other person, in relation to the affairs and condition of such company, and may administer such oath personally. (*Laws of 1851, chap. 1111, sec. 5.*)

SEC. 12. If such commissioners, upon examination into the affairs of any insurance company, or for other good cause, shall deem it unsafe for the public interest that such company shall issue policies of insurance, or if the officers of any company shall neglect or refuse to submit to any examination by them, or either of them, or to furnish the necessary facilities for such examination, they shall represent the same in writing, signed by a majority of the commissioners, to one of the justices of the superior court of judicature, and such justice shall forthwith issue an injunction to the president and directors of said company, prohibiting it from issuing any more policies until such injunction shall be dissolved, and said commissioners shall cause the same to be served according to law. (*Laws of 1851, chap. 1111, sec. 6.*)

SEC. 13. After due notice and a full hearing on the part of said company upon the matters aforesaid, said justice may dissolve, modify or continue said injunction, and make such further orders and decrees as the circumstances and business of said company, as the necessity of the case may require, according to the course of proceedings in equity, until the legislature shall take action in the premises. (*Laws of 1851, chap. 1111, sec. 7.*)

SEC. 14. The provisions of this act (seven preceding sections) shall not apply to any insurance company established under the provisions of the one hundred and forty-fifth chapter of the revised statutes, (152 of this compilation) when the articles of agreement prohibit said company from effecting insurance upon property not within the limits of the town or city where said company is established. (*Laws of 1851, chap. 1111, sec. 8.*)

CHAPTER 155.

OF LIFE INSURANCE.

IDENTICAL WITH
Chapter 967, Laws of 1850.

SECTION

1. Insurance for the benefit of married women and others.

SECTION

2. Entitled to the benefit of such policy against creditors, &c.

SECTION 1. Any policy of insurance made by an insurance company on the life of any person, expressed to be for the benefit of a married woman, whether the same be effected by herself or by her husband, or by any other person on her behalf, shall enure to her separate use and benefit and that of her children, if any, independently of her husband and of his creditors and representatives, and also independently of any other person effecting the same in her behalf, his creditors and representatives; and a trustee or trustees may be appointed by any court authorized to appoint trustees, to hold and manage the interest of any married woman in any such policy or the proceeds thereof.

SEC. 2. Where a policy of insurance is effected by any person on the life of another, expressed therein to be for the benefit of such other, or his representatives, or for that of a third person, and when it is expressed in any policy of insurance by which a person insures his own life, that it is made for the benefit of another, the party for whose benefit such policy is made shall be entitled thereto as against the creditors and representatives of the person so effecting the same.

TITLE XVIII.

OF THE DOMESTIC RELATIONS.

- CHAPTER 156. Of marriage.
 CHAPTER 157. Of divorce.
 CHAPTER 158. Of husband and wife.
 CHAPTER 159. Of guardian and ward.
 CHAPTER 160. Of masters, apprentices and servants.
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CHAPTER 156.

OF MARRIAGE.

IDENTICAL WITH

Chapter 147 of the Revised Statutes, (except sec. 9, 10 and 11,
 repealed by Laws of 1851, chap. 1103.)

SECTION

1. Men forbidden to marry, whom.
2. Women forbidden to marry, whom.
3. Such marriages incestuous and void.
4. Banns must be published.
5. Certificate of publishment given.
6. Who may solemnize marriages.
7. Fees for solemnizing marriages.
8. Not to affect marriage of Quakers.

SECTION

9. Penalty for solemnizing a marriage not authorized.
10. Penalty for solemnizing marriage by person not authorized.
11. Copy of record of marriage to be presumptive evidence thereof.
12. Marriages not void though irregular.
13. Age of consent, in females, 12; in males, 14.

SECTION 1. No man shall marry his father's sister, mother's sister, father's widow, wife's mother, daughter, wife's daughter, son's widow, sister, son's daughter, daughter's daughter, son's son's widow, daughter's son's widow, brother's daughter or sister's daughter.

SEC. 2. No woman shall marry her father's brother, mother's brother, mother's husband, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, brother's son or sister's son.

SEC. 3. Every marriage contract by parties within the degrees prohibited by the two preceding sections, is incestuous and void, and the issue of such marriage illegitimate.

SEC. 4. All persons residing in this State, proposing to be joined in marriage, shall have their intention published on three

several public meeting days, in the respective towns where the parties dwell, by the clerks of such towns. If either party lives in a town where there is no clerk, such publishment shall be made in some town next adjoining.

SEC. 5. Such town clerk shall give to either of said parties a certificate under his hand, that the intention of marriage between said parties has been published as is above provided, which certificate shall be produced to the magistrate or minister who is to marry said parties, before such marriage is solemnized; for which certificate said clerk shall receive fifty cents.

SEC. 6. Marriages may be solemnized by any justice of the peace, within any county for which he is commissioned, and throughout the State by any minister of the gospel who has been ordained according to the usages of his denomination, and who resides within this State and is in regular standing with the denomination to which he belongs.

SEC. 7. The persons so joined in marriage by any minister or justice, shall pay such minister or justice one dollar.

SEC. 8. Nothing contained in this chapter shall affect the right of the people called Friends or Quakers to solemnize marriages in the way usually practised in their meetings, but all marriages so solemnized shall be valid.

SEC. 9. If any minister or justice of the peace shall without a certificate of publishment as hereinbefore provided, or shall, contrary to the provisions of this chapter, join any persons in marriage, he shall forfeit for each offence sixty dollars to the use of the parent, master or guardian of either of the parties who will first sue therefor.

SEC. 10. If any person not authorized by this chapter to solemnize marriages, shall join any persons in marriage with or without publishment, he shall be punished by fine not less than one hundred nor more than three hundred dollars, one half to the use of the complainant and the other half to the use of the county in which the offence is committed.

SEC. 11. A copy of the record of any marriage, certified by any such minister, justice, clerk of the people called Friends, or town clerk, shall be received in all courts and places as evidence of the fact of such marriage.

SEC. 12. No marriage solemnized before any person professing to be a justice of the peace or minister of the gospel, shall be void, nor shall its validity be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the publication of the intention of marriage, if the marriage is in other respects lawful, and consummated with the belief on the part of either of the parties to the marriage, that they have been lawfully married.

SEC. 13. The age of consent shall be deemed to be, in the case of a female, twelve years, and in the case of a male, fourteen years.

CHAPTER 157.

OF DIVORCE.

COMPILED FROM

Chapter 148 of the Revised Statutes.

“ 740, Laws of 1848.

SECTION

1. Marriages, when null and void.
2. Decree of nullity, how obtained.
3. Causes of divorce.
4. When such cause is complete.
5. Not granted unless cause still exists.
6. Libels, where to be brought.
7. Libels to state cause of divorce.
8. Guardian for libellee, how appointed.
9. Marriage, how proved.

SECTION

10. During pendency of libel, wife and children how protected.
11. Legitimacy of children, how affected.
12. Support and custody of children.
13. Alimony decreed to the wife.
14. Decree of alimony, how made.
15. Security for payment required.
16. Decree may be revised, and costs awarded.

SECTION 1. All marriages prohibited by law on account of the consanguinity or affinity of the parties, or where either has a former wife or husband living, knowing such wife or husband to be alive, shall, if solemnized in this State, be absolutely void without any decree of divorce or other legal process.

SEC. 2. If any doubt exists in any case whether any marriage is void, or as to the effect of any former decree of divorce or nullity between the parties, a libel may be filed as in other cases, and a decree of divorce or nullity pronounced accordingly.

SEC. 3. A divorce from the bond of matrimony shall be decreed for the following causes, in favor of the innocent party: for impotency, adultery, extreme cruelty, or conviction of crime and actual imprisonment in the state prison of either party; when either party has so treated or shall so treat the other as seriously to injure health or endanger reason; or has been absent three years together and has not been heard of; or is an habitual drunkard, and has been or shall have been such for three years together; or shall have joined any religious sect or society which professes to believe the relation of husband and wife to be unlawful, and refused to cohabit with such other for the space of six months; when the husband shall have willingly absented himself from the wife for the space of three years together, without making suitable provision for her support and maintenance; or when the wife of any alien or citizen of another state, living separate, shall have resided in this State for three years together, he having left the United States with the intention of becoming a citizen of some foreign country, and not having during that time come into this State and claimed his marital rights, and without making suitable provision for her

support and maintenance; when either party, without sufficient cause and without the consent of the other, shall have abandoned such other, and refused for three years together to cohabit with such other. (*R. S., chap. 148, sec. 3, as amended by laws of 1848, chap. 740.*)

SEC. 4. If any cause exist which, if it continue for the space of time prescribed in the preceding section, will be a cause of divorce, and such cause shall continue to exist for such further space of time as together to constitute the time so prescribed, or if such cause has already existed for the time so prescribed, and shall continue for the further space of not less than one month, it shall be a sufficient cause of divorce.

SEC. 5. No divorce shall be granted for any cause except adultery, unless such cause shall be in existence at the time of filing the petition for such divorce.

SEC. 6. All libels for divorce shall be brought in the county in which the parties or one of them live, and before the superior court of judicature holden in and for such county, and such notice of the pendency thereof shall be given to the libellee, personal or otherwise, as the court shall order.

SEC. 7. Every libel shall state the cause or causes of divorce, and shall be signed by the libellant, if of sound mind and of the age of legal consent; otherwise by the parent, guardian or next friend of such libellant.

SEC. 8. If the libellee is insane, the court may appoint a guardian to appear and answer for such libellee, as is done for an infant defendant at common law.

SEC. 9. Upon any hearing for divorce, the admission of the marriage by the party against whom the process is instituted, general repute, the fact of cohabitation, or any other circumstantial or presumptive evidence from which the marriage may be inferred, shall be competent evidence for the consideration of the court.

SEC. 10. After the filing of a libel for divorce, the superior court of judicature sitting in any county, or any judge thereof may, on petition of the wife, prohibit the husband from imposing any restraint upon her personal liberty during the pendency of the libel, and may also, on the petition of either party, make such order respecting the custody and maintenance of the minor children of the parties as shall be deemed expedient and for the benefit of such children.

SEC. 11. No decree of divorce shall affect the legitimacy of any child born or begotten in lawful matrimony, unless it shall be so expressed in such decree.

SEC. 12. In all cases where there shall be a decree of divorce or nullity, the court shall make such further decree in relation to the maintenance, education and custody of the children as shall be most conducive to their benefit, and may order a reasonable provision for their support to be made by or out of the estate of the guilty party.

SEC. 13. Upon any decree of nullity or divorce, the court may restore to the wife all or any part of her lands, tenements and hereditaments, and may assign to her such part of the real and personal estate of her husband, or order him to pay such sum of money as may be deemed just and expedient; and may compel the husband to disclose under oath the situation of said property, and before or after such decree may make such orders and use such process as may be necessary to carry the same into full effect, and to protect the rights of the wife.

SEC. 14. In any case arising under the two preceding sections, the court may order the property to be conveyed, or the money to be paid to a trustee or trustees by the court appointed, upon trust to invest the same, and to apply the income thereof to the support of the wife, or the maintenance and education of the minor children, and to pay over the principal sum or any part thereof, in such manner as the court may from time to time order; and every such trustee shall give bonds as the court shall order for the faithful performance of said trust.

SEC. 15. In all cases where alimony or any allowance shall be decreed for the wife or children, the court may require sufficient security to be given for the payment thereof, according to the terms of the decree.

SEC. 16. The court, upon proper application and notice to the adverse party, may revise and modify any order made by such court, and may make such new orders as may be necessary, and may award costs as justice may require.

CHAPTER 158.

OF HUSBAND AND WIFE.

COMPILED FROM

Chapter 149 of the Revised Statutes.

" 236, Laws of 1845.

" 327, " " 1846.

SECTION

1. Wife deserted, may hold property.
2. Property of husband, when sold for support of wife and children.
3. Married woman may make contracts if deserted.
4. Rights of wife of alien living separate.
5. Rights of husband becoming a resident.

SECTION

6. Rights of wife after divorce.
7. Forcible removal forbidden.
8. Guardians, how appointed.
9. Conveyances by and to wife, how made, if husband under guardianship.
10. Wife may join in conveyances of husband, when.
11. Wife may devise her real estate.

SECTION

12. Contracts before marriage.
13. Conveyances and bequests to married women.
14. Contracts to be recorded.
15. Married women to sue and be sued.

SECTION

16. Husband not convey property to wife.
17. Married women dying intestate.
18. Superior court may appoint trustee.
19. Marriage not to be contested after decease, in what cases.

SECTION 1. When any husband shall have deserted his wife and remained absent for the space of three months, without making suitable provision for her support and the maintenance and education of their minor children, or when any cause is in existence which is or which, if it continues to exist for a longer period, may be a cause of divorce, and the wife is the injured party, she shall be entitled to hold in her own right and to her separate use any property acquired by her by descent, legacy or otherwise, and to the earnings of her minor children, until said parties shall afterwards cohabit, and may dispose of the same without the interference of her said husband or of any person claiming under him.

SEC. 2. In any such case if the husband leave property within this State, the judge of probate for the county in which the wife resides, on petition by her and such notice to the husband, personal or otherwise, as the judge shall order, may authorize such portion of said property as may be necessary for the maintenance of herself and children, to be sold at public auction, and cause the proceeds of such sale to be appropriated and expended for that purpose, in such manner as he may direct, and require bonds for the faithful application of such proceeds according to the order of said court.

SEC. 3. Whenever any married woman shall be entitled to hold property in her own right and to her separate use, she may make contracts, may sue and be sued in her own name and may dispose of said property by will or otherwise, as if she were sole and unmarried; and if she shall decease intestate, her husband shall be excluded from any share in her said estate, and such estate shall be administered and inherited in the same manner as if she were sole and unmarried.

SEC. 4. If any woman being the wife of an alien or of a citizen of any other state, shall have resided in this State for the term of six months successively, separate from her husband, she shall be capable of making contracts, may sue and be sued in her own name for any cause of action that may accrue during such separate residence, may acquire and hold property in her own right, and may have the exclusive care, custody and guardianship of her minor children living with her in this State; and the earnings of such children shall be expended in the same manner as if her husband had deceased; but such woman shall not contract another marriage, nor sue nor be sued for a breach of such contract.

SEC. 5. If the husband of such woman shall become a citizen of this State, and they shall cohabit together, the fact of his be-

coming such citizen and such cohabitation shall have the same effect upon any contract or business of the wife, or upon any suit by or against her, as if the marriage between them had been first solemnized at the time of his thus becoming a citizen of this State.

SEC. 6. If the husband of such woman shall obtain a divorce from his said wife, in any court or tribunal of any other state or country, or if a divorce shall be decreed upon application of the wife during such separate residence, she shall be entitled to retain to her own use any property real or personal, which may have been acquired by, or given or descended to her during such separate residence, and to retain the exclusive custody and guardianship, and to receive the earnings of her minor children born in this country and living with her, unless upon a hearing of the parties before the superior court of judicature, it shall be made to appear by other evidence than such decree of divorce, that she has been guilty of adultery or other criminal breach of the marriage covenant.

SEC. 7. If any such married woman shall reside in this State, separate from her husband, it shall be unlawful for the husband of such woman, he being an alien or being about to leave the United States to go to any foreign country, to take from the custody of such woman any minor child of the marriage born in this country, with intent to remove said child to any foreign country against the consent of the mother.

SEC. 8. Upon her application a guardian may be appointed for such child, and the superior court of judicature, or either of the justices thereof, is authorized to issue an injunction restraining the father and all other persons from removing said child from this State against the consent of the mother, and to make such further orders and decrees as shall secure to her or to said guardian the custody of such children.

SEC. 9. The wife of any man who is under guardianship, may join with the guardian in the conveyance of her interest in her real estate or in the real estate of such ward, or in making partition of her own real estate held in joint tenancy or in common, and may make or receive any release or other conveyance necessary or proper for that purpose, in like manner as she might have done with her husband if he had been under no disability.

SEC. 10. Any married woman of full age may join with her husband in any conveyance of real estate, and any married woman may join with her husband in release of dower, although she is not of full age.

SEC. 11. Any married woman of the age of twenty-one years or upwards, and of sane mind, who may be seized in her own right of any real estate in this State, shall have power to give, devise and dispose of the same by will in writing, which will, when signed and sealed by the deviser, and duly attested and subscribed by three credible witnesses thereto in her presence, and executed with the formalities now required by law in other cases, shall be

proved and allowed by the courts of probate in this State, and shall be effectual in distributing the estate devised, according to the intention of the devisor; *provided, however*, that any such will shall in no case affect injuriously the rights acquired by the husband in any estate so devised, by virtue of the marriage contract. (*Laws of 1845, chap. 236.*)

SEC. 12. At any time before a marriage the parties may enter into a contract in writing, declaring their consent that after the marriage shall have been solemnized, the wife shall continue to hold either the whole or any designated part of any interest in the real or personal estate, or rights of action of which she may be seized or possessed at the time of her marriage, to her sole and separate use, free from the control and interference of her husband; and the said wife shall hold, possess and enjoy the same accordingly. (*Laws of 1846, chap. 327, sec. 1.*)

SEC. 13. Any devise, conveyance or bequest of property, real, personal or mixed, may be made to any married woman, to be held by her without the intervention of a trustee, to her sole and separate use, free from the interference or control of her husband; and she shall hold, possess and enjoy the estate so given, devised, conveyed or bequeathed accordingly, and shall in like manner hold any property which she may receive under the provisions of any deed of trust, made either before or after her marriage. (*Laws of 1846, chap. 327, sec. 2.*)

SEC. 14. The contract or conveyance aforesaid, whenever the same shall relate to land or real estate, shall be recorded in the registry of deeds in the county where said land or real estate is situated, as is required in relation to deeds of real estate in other cases. (*Laws of 1846, chap. 327, sec. 3.*)

SEC. 15. Married women in the cases aforesaid shall, in respect to all such property, have the same rights and possess and be entitled to the same remedies, in her own name at law and in equity, and be liable to be sued at law and in equity upon any contract by them made, or any wrong by them done in respect to such property. And also upon any contract by them made, or wrongs by them done, before their marriage, in the same manner and with the same effect as if they were unmarried. (*Laws of 1846, chap. 327, sec. 4.*)

SEC. 16. Nothing herein contained shall be construed to empower any husband to convey any of his property to his wife in any other manner or with any other effect than if the same had not been passed. (*Laws of 1846, chap. 327, sec. 5.*)

SEC. 17. If any married woman, holding property to her separate use by virtue of this act, (sections 12, 13, 14, 15, 16, 17 and 18 of this chapter) shall die intestate, all her right and interest in the personal property thus held shall vest in her husband, unless other provision is made in relation thereto by the terms of the contracts or conveyances hereinbefore mentioned; and he shall be entitled to his estate by the courtesy, in all lands and tenements held

by his wife, as if this act had not been passed: *provided, however*, that in every such case it shall be necessary for the husband to take administration on the estate of the deceased wife; and he shall hold such personal property and all the interest of the wife in any real estate, saving his estate by the courtesy, subject to the payment of all debts incurred by her either before or after the marriage. (*Laws of 1846, chap. 327, sec. 7.*)

SEC. 18. Upon the petition of any married woman holding property to her sole use, the superior court of judicature may appoint a trustee or trustees, to hold the same in trust for her; and such petitioner may thereupon convey to such trustee or trustees all property so held by her upon such trust, and to such uses as she may declare, and thereafter such trustee or trustees may, in his or their own name or names, prosecute all actions commenced in relation to such property, and defend all actions brought against such woman, founded on any cause of action accordingly on such conveyance. And all such property so assigned shall be liable, in the hands of such trustee or trustees, to be attached or taken on execution in any such action. And after such assignment to a trustee or trustees, the rights and powers conferred upon such married woman by this act (this and the six preceding sections) shall cease, and her rights, interest and power shall depend upon the trusts and uses declared in the instrument of conveyance to the trustee or trustees, or in any other lawful declaration of trust. (*Laws of 1846, chap. 327, sec. 8.*)

SEC. 19. Any persons cohabiting and acknowledging each other as husband and wife, and generally reputed to be such, for the period of three years, and until the decease of one of them, shall be deemed after such decease to have been legally married. (*R. S., chap. 149, sec. 11.*)

CHAPTER 159.

OF GUARDIAN AND WARD.

COMPILED FROM

Chapter 150 of the Revised Statutes.

"	34,	Laws of 1843.
"	135,	" " 1844.
"	136,	" " 1844.
"	336,	" " 1846.
"	998,	" " 1850.

SECTION

1. Guardians, when appointed.
2. Mode of appointment.

SECTION

3. Powers and duties of guardians.
4. Who may be appointed.

SECTION

5. Rights of married women as guardians.
6. Marriage of female guardian, effect.
7. Property of absent parent, when sold for support of children.
8. Proceeds of sale, how appropriated.
9. If the mother is guardian and dies, new guardian appointed.
10. Insanity, what is, how determined.
11. Guardian for the insane appointed.
12. Who is deemed a spendthrift.
13. Guardian of spendthrift appointed.
14. All guardians shall give bond.
15. Duties of guardian as to ward.
16. Ward to sue and be sued by guardian.
17. Guardian of insane person or spendthrift, to give notice of his appointment.
18. To return an inventory.
19. Ward to be employed in labor.
20. Contracts made by ward are void.
21. Contracts, how confirmed by guardian.
22. Guardian may apply for sale of personal estate.

SECTION

23. Land of ward, how sold by license.
24. Mode of sale by guardian, and oath.
25. New bond required of guardian.
26. Conveyance of land sold, how made.
27. Sale must be made within two years after license.
28. Guardians of married persons, powers and duties of.
29. Proceeds of sale to be equitably divided.
30. Estate of ward may be decreed insolvent.
31. Balances of claims remaining due to survive against the estate.
32. Evidence of sale, how perpetuated.
33. Sale by foreign guardian, how made.
34. Guardian, how removed and new one appointed.
35. Guardianship, how revoked.
36. Compensation of guardians.
37. Guardians ad litem, how appointed.
38. Vouchers to be filed in court.
39. Penalty for not filing vouchers.

SECTION 1. The judge of probate in each county, whenever there shall be occasion, may appoint a guardian to any minor.

SEC. 2. If the minor is under the age of fourteen years, the judge may appoint a guardian; if the minor is above the age of fourteen years, he may, though under guardianship previous to that age, elect any suitable person for his guardian, who shall be appointed by the judge; if, after being cited by the judge, he shall neglect to nominate a suitable person, the judge may appoint a guardian in the same manner as if the minor were under the age of fourteen years.

SEC. 3. Every guardian shall have the custody and tuition of the minor, and the care and management of his estate, and shall continue in office until the minor arrives at the age of twenty-one years, or until discharged according to law.

SEC. 4. The judge may in his discretion appoint the father or mother, or any person nominated by either, to be guardian of any child, as he shall think most conducive to the interest of such child; but if any cause exists, which if continued may be a cause for divorce, the preference shall be given to the party injured or to the person nominated by such party, being a suitable person.

SEC. 5. Any married woman so appointed shall have the same rights and powers and be subject to the same duties and liabilities as other guardians.

SEC. 6. If any female guardian shall marry, her husband shall

not thereby become guardian, but such marriage shall operate as an extinguishment of the trust.

SEC. 7. If any person absent from the State, for whose child a guardian has been appointed, shall neglect to make provision for the support of his wife or children, and shall leave property within the State, the judge, upon petition of the guardian and due notice, may authorize said guardian to sell at public auction such portion of said property, real or personal, as he may deem necessary to be expended frugally and without waste for the comfortable support of the mother, and the proper education and maintenance of said ward.

SEC. 8. Such guardian shall not be held liable, upon the decease of the father of any such ward, to account to his administrator for any balance in his hands not expended, but shall retain and appropriate the same as if the father had not deceased.

SEC. 9. If the mother shall be guardian and shall decease, the judge, upon application of some relative or friend of the minor, shall appoint a guardian in her stead, who shall be entitled to receive any balance in her hands at her decease.

SEC. 10. Upon application by any relative or friend of any insane person, or upon the like application of the overseers of the poor of the town in which such person lives, made to the judge of probate for the county in which said town is situate, that a guardian may be appointed over such person, the judge shall cause the selectmen of the town in which such person lives, to make inquiry thereinto.

SEC. 11. If upon the return of such inquiry and due examination had, it shall be decreed that such person is an insane person, the judge shall appoint a guardian over such person; but no such decree or appointment shall be made until such person shall have been cited to appear and show cause against the same.

SEC. 12. Any person who, by excessive drinking, gaming, idleness, debauchery or vicious habits of any kind, shall so waste, spend or lessen his estate, or shall so neglect to attend to any useful calling or business for which he may be capable, as thereby to expose himself or his family, or any of them, to want or suffering circumstances, or to endanger or expose the town to which he belongs, in the judgment of the selectmen of the town in which he resides, to expense for the support of himself or any of his family, shall be deemed a spendthrift.

SEC. 13. Upon complaint thereof in writing, made to the judge of probate for the county where such person resides by said selectmen or by any relative of such person, said judge shall appoint a day of hearing, and if, upon due notice and examination had, it shall appear that such person comes within the description in the preceding section, said judge shall appoint a suitable person to be guardian over such spendthrift. (*R. S., chap. 150, sec. 13, as amended by laws of 1850, chap. 998.*)

SEC. 14. Every guardian appointed by virtue of this chapter,

shall give bond to the judge of probate in a reasonable sum, with sufficient sureties, upon condition among other things for the faithful discharge according to law of the trust reposed in him, and for rendering upon oath a true and just account of his guardianship when and so often as he shall be thereto required.

SEC. 15. He shall take care as well of the person as of the estate real and personal of his ward, shall improve the same frugally and without waste, and apply the annual profits and income thereof for the comfortable maintenance and support of his said ward, and his household and family, if any he have; shall collect the dues of his said ward, shall pay his just debts out of his property in the most economical manner, and shall protect the rights of his said ward. (*R. S., sec. 17.*)

SEC. 16. Such ward shall sue and be sued, prosecute and defend by his guardian. (*R. S., sec. 18.*)

SEC. 17. Every guardian of an insane person or spendthrift shall, immediately upon his appointment, give public notice thereof in some newspaper printed in the county, if any there be, or in such newspaper as the judge shall direct, and in all cases shall also post up a notification thereof in the town where his ward resides. (*R. S., sec. 15, amended by laws of 1843, chap. 34, sec. 12.*)

SEC. 18. Every guardian of an insane person or spendthrift shall also make and return a true and perfect inventory of the estate of his ward, in the same way as inventories of persons deceased are taken. (*R. S., sec. 16, as amended by laws of 1843, chap. 34, sec. 12.*)

SEC. 19. Every guardian appointed over any spendthrift shall inculcate habits of sobriety and industry in his ward, and may employ his ward or the children of his ward in any suitable labor, or bind them out to labor by a written contract for a term not exceeding one year.

SEC. 20. No bargain or sale of real or personal estate, and no contract of any nature whatever, made by a person under guardianship after the appointment made and during the continuance of such guardianship, shall be valid in law.

SEC. 21. No such bargain, sale or contract shall be valid if made after an attested copy of any complaint presented to a judge of probate, upon which a guardian shall be appointed, and the order of notice thereon shall have been filed with the clerk of the town in which the person complained of resides, unless the guardian, by an instrument under his hand and seal, shall afterwards approve and ratify the same.

SEC. 22. Any legal guardian, upon the return of the inventory of the personal estate of his ward, may apply to the judge of probate by due petition for the sale thereof, and said judge of probate may by license authorize the sale thereof at public auction; and in all cases when it shall appear that said guardian has conducted the sale of said property with all due fidelity, then the judge of

probate, in the settlement of the account of said guardian, shall charge him with the amount of said sales at the auction prices. (*Laws of 1844, chap. 135, sec. 1.*)

SEC. 23. The judge of probate for the county in which any guardian received his appointment, may authorize such guardian to sell at public auction the real estate of his ward, or any wood or timber growing thereon, whenever the sale thereof shall be necessary for the support of the ward or his family, or is conducive to his or their interest. (*R. S., sec. 22.*)

SEC. 24. Before making any sale under such license, the guardian shall take the following oath before the judge of probate or any justice of the peace; and shall file the certificate thereof in the probate office before the settlement of his account:

"I, A. B., guardian of C. D., &c., my ward, do solemnly swear that in disposing of the estate of my said ward, for which I have obtained license, I will use my best judgment in fixing on and advertising the time and place of sale, and will exert my utmost endeavors that the same shall be sold in such manner as shall be of the greatest advantage to my said ward, without any sinister or selfish views whatever." (*R. S., sec. 23.*)

SEC. 25. If the judge shall not be satisfied that the guardian has already given bond sufficient to bind him to conduct with fidelity in the sale, and to account and respond for the proceeds thereof, he shall, before he issues license therefor, require of such guardian a bond sufficient for that purpose. (*R. S., sec. 24.*)

SEC. 26. Every guardian so licensed and sworn, and having so advertised and sold, may execute and deliver a valid conveyance of the estate of the ward so sold, to the purchaser, being the highest bidder, his heirs and assigns. (*R. S., sec. 25.*)

SEC. 27. No license to any guardian for the purposes aforesaid, shall be available to sustain any sale under the same, unless such sale is made within two years after the granting of such license. (*R. S., sec. 26.*)

SEC. 28. When any married man and his wife are both under guardianship, and the guardian of the husband shall have obtained license from the judge of probate to sell any of the real estate of his ward, the guardian of the wife may, without license, join in such sale, and release his ward's interest or contingent right of dower in the premises thus sold; and when the guardian of any such married woman shall have obtained such license to sell any of the real estate of his ward, the guardian of her husband may, without license, join in the deed and release and convey all the interest of the husband in the premises thus sold; and such release shall be binding in each of the cases aforesaid, and shall bar such husband and wife respectively from ever thereafter claiming or recovering any right or interest in the premises thus sold and released. (*Laws of 1846, chap. 336, sec. 1.*)

SEC. 29. When any married woman, in person or by her guardian, shall join with the guardian of her husband in a deed releasing

her right of dower in any of the real estate of her husband ; or where any such husband, in person or by guardian, shall join with the guardian of his wife in the sale of her real estate, and release the interest of such husband in such real estate, the proceeds of such sale shall be equitably divided, according to the value of the respective interests of such husband and wife in the estate sold, between the guardian thus licensed to sell such real estate of his ward and the husband or wife of such ward or the guardian of such husband or wife, in such proportion as the judge of probate who granted such license shall order and direct ; and the respective guardians shall receive and be charged accordingly. (*Laws of 1846, chap. 336, sec. 2.*)

SEC. 30. When it shall appear to the satisfaction of the judge of probate, upon the representation of the guardian of any insane person or spendthrift, that the estate of his said ward may not be sufficient to discharge the just debts due therefrom, then, upon due application made to said judge of probate by said guardian, he may decree that the said estate be settled as an insolvent estate. And in all such cases, such proceedings shall be had, decrees made, appeals allowed, suits disposed of, and the accounts of said guardian adjusted in the same manner as is now by law provided in cases of insolvent estates of deceased persons. (*Laws of 1844, chap. 135, sec. 2.*)

SEC. 31. In all cases where the estate of any insane person or spendthrift under guardianship shall, by virtue of the decree of any judge of probate in this State, be settled as an insolvent estate, and a dividend or dividends upon the claims of the creditors of such estate shall be declared, and the whole amount of such claims shall not be satisfied by the decree and payment pursuant to the same, then any and all such balances remaining due to the creditors as aforesaid, shall survive against the estate of said wards during the existence of said guardianship, and for the term of three years after such disability shall be removed. (*Laws of 1844, chap. 136.*)

SEC. 32. Any guardian, purchaser or other person interested, may petition the judge to perpetuate the evidence of any facts set forth in such petition, relating to any proceeding connected with such guardianship, and the judge after due notice may decree that all or any of such facts are proved, and such decree shall be conclusive evidence of those facts. (*R. S., sec. 27.*)

SEC. 33. Upon application made by any guardian appointed in any other state, whose ward may own lands within this State, to the judge of probate for the county in which such lands lie, said judge, upon receiving satisfactory evidence of his said appointment, may grant license to sell and convey the same in the same manner as is provided in the case of guardians appointed in this State ; and such guardian shall give bond with sureties resident in this State, make oath, proceed in such sale and conveyance, and

in all respects be entitled to the same rights and subject to the same liabilities as if appointed by the laws of this State. (*R. S., sec. 28.*)

SEC. 34. The judge, upon petition and after due notice, may remove any guardian, whenever in his opinion it may be necessary or expedient, and appoint another in his stead. (*R. S., sec. 29.*)

SEC. 35. If the cause for which any guardianship was granted, has ceased or is removed, such guardianship upon like petition and notice shall be revoked. (*R. S., sec. 30.*)

SEC. 36. Every guardian shall be allowed a reasonable compensation for all proper expenses and services in the discharge of his trust. The balance of the guardian's account due to him shall be a lien upon all the estate of his ward, real and personal, not disposed of by the guardian, for the recovery of which, after he ceases to be guardian, he may maintain an action for money paid and advanced. (*R. S., sec. 31.*)

SEC. 37. Any court may appoint, when necessary, a guardian to prosecute or defend any suit pending before such court, in behalf of any minor or insane person, or to appear for and protect the rights of such minor or other person interested in any matter pending before such court, and a bond may be required of such guardian at the discretion of the court. (*R. S., sec. 32.*)

SEC. 38. Every guardian shall take a receipt of his ward or of his legal representative, to whom he shall pay or deliver the property of such ward, and file the same in the probate office, to be there preserved, the time of its being so filed being certified upon it by the register. (*R. S., sec. 33.*)

SEC. 39. Any guardian may be cited by the judge of probate, upon complaint of any surety or his representative, to file such receipt in the probate office; and if he shall neglect or refuse so to do, he shall forfeit twenty dollars, and the like sum for every thirty days' neglect afterwards, to be recovered by such complainant, unless the judge shall on a hearing certify the reason of the omission to be sufficient. (*R. S., sec. 34.*)

CHAPTER 160.

OF MASTERS, APPRENTICES AND SERVANTS.

IDENTICAL WITH

Chapter 151 of the Revised Statutes.

SECTION

1. Children under 14, how bound as apprentices.
2. Children over 14, how bound as apprentices.

SECTION

3. Form and requisites of indentures.
4. With whom indentures to be lodged.
5. Effect of such indentures.
6. Indenture voidable on death of master.

SECTION

7. Rights of apprentice, how protected.
8. Indentures voidable by reason of misconduct of master.
9. Misconduct of apprentice, how punished.
10. Assault by apprentice, how punished.

SECTION

11. Runaway apprentice, how apprehended.
12. Enticing away apprentice, how punished.
13. Liability of master for neglect to teach apprentice.

SECTION 1. Children under the age of fourteen years may be bound as apprentices or servants, until that age, without their consent, by their father, if living, or if not living, by their mother or guardian; and if such child has no parent or guardian, he may bind himself with the approbation of the selectmen or overseers of the poor of the town where he resides.

SEC. 2. Minors above the age of fourteen years may be bound, with their consent, by their father, or after his decease by their mother or guardian, as apprentices or servants, females until the age of eighteen years or to the time of their marriage within that age, and males to the age of twenty-one years; and the consent of such minor shall be distinctly expressed in the indenture and testified by his signing the same.

SEC. 3. No minor shall be bound as aforesaid, except by an indenture of two parts signed, sealed and delivered by both parties; and when the minor shall bind himself with the approbation of the selectmen or overseers of the poor as aforesaid, such approbation shall be certified in writing signed by them on each part of the indentures.

SEC. 4. One part of said indentures shall be kept by the master or mistress, and the other part by the parent or guardian of the minor, or, if approved by the selectmen or overseers of the poor, by the town clerk of the town, in trust for such minor.

SEC. 5. All indentures executed as aforesaid, shall be good and effectual in law against all the parties thereto.

SEC. 6. No indenture aforesaid shall be binding upon the minor or upon his parent or guardian, after the decease of the person to whom such minor was so bound; but if said apprenticeship shall have nearly expired, and such apprentice shall choose to complete his service with the widow, or the executor or administrator of his master, he shall be entitled to all the benefits of said indenture, which shall be paid out of said estate, as though the master had lived until such apprenticeship had expired.

SEC. 7. All parents, guardians, selectmen or overseers, as the case may be, shall inquire into the usage of the minors bound out as aforesaid, and defend them from the cruelty, neglect or breach of covenant of the master; and may make complaint thereof to any justice, who shall notify the parties, and hear and determine such complaint.

SEC. 8. If the complaint is supported, the justice may render judgment that such minor be discharged from his said indentures,

and that the master shall pay all damages sustained by the minor from such neglect, cruelty or breach of covenant, and costs; but if said complaint is not sustained, the justice shall award costs to the respondent; and in either case execution may issue therefor.

SEC. 9. If any apprentice shall be guilty of any gross misbehavior, wilful neglect or refusal of his duty, and shall persist therein after being suitably remonstrated with by his master, the master may make complaint thereof to any justice, who, after duly notifying said apprentice and all persons covenanting in his behalf, shall hear and determine such complaint, and render judgment that the master be discharged from the indenture, and recover costs against the said parent, guardian or minor, or that costs shall be taxed for the respondent; and in either case execution may be issued accordingly.

SEC. 10. If any apprentice shall strike or use any personal violence towards his master, any justice, upon complaint, notice and hearing of the parties, shall render judgment against such parent, guardian or minor for all damages sustained, and for costs, and may issue execution therefor, and, if the master chooses, shall adjudge the indenture to be void; otherwise, for the respondent for his costs, and may issue his execution therefor against said master.

SEC. 11. If any apprentice shall depart from the service of his said master, without leave or sufficient cause, the master may empower any person (by giving public notice thereof) to apprehend and bring back such apprentice to the place of his duty; and all necessary expenses incurred therein, and all reasonable damage sustained, shall be recovered by said master of the parent or guardian of such apprentice, and if paid by a guardian, shall be proper charge in his guardianship account.

SEC. 12. If any person shall entice or persuade away any such apprentice from the service of his master, or secrete, convey or send off any apprentice either by sea or land, or in any way cause any apprentice to leave the service of his said master, such person shall make good all damages to said master, and be punished by fine not less than five nor more than one hundred dollars.

SEC. 13. If any master shall neglect to teach or cause to be taught to any apprentice the art, trade or profession he was bound to teach, or to fulfil any part of his contract, he shall pay to such apprentice, after he shall become of age, all damage sustained by reason of such neglect.

TITLE XIX.

OF PROBATE AND THE ESTATES OF DECEASED PERSONS.

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- CHAPTER 161. Of judges of probate and their jurisdiction.
 CHAPTER 162. Of registers of probate.
 CHAPTER 163. Of times and places of holding courts of probate.
 CHAPTER 164. Of citations and notice.
 CHAPTER 165. Of wills.
 CHAPTER 166. Of probate of wills.
 CHAPTER 167. Of administration.
 CHAPTER 168. Of inventory and accounts.
 CHAPTER 169. Of embezzlements.
 CHAPTER 170. Of suits by and against administrators.
 CHAPTER 171. Of insolvent estates.
 CHAPTER 172. Of appeal from commissioners.
 CHAPTER 173. Of license to sell real estate.
 CHAPTER 174. Of conveyance of real estate when wife is insane.
 CHAPTER 175. Of widow's allowance, dower and distributive shares.
 CHAPTER 176. Of descent, distribution and advancements.
 CHAPTER 177. Of division of estates among heirs.
 CHAPTER 178. Of trustees of estates.
 CHAPTER 179. Of bonds to the judge of probate and suits.
 CHAPTER 180. Of appeals from the court of probate.
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CHAPTER 161.

OF JUDGES OF PROBATE AND THEIR JURISDICTION.

IDENTICAL WITH

Chapter 152 of the Revised Statutes.

SECTION

1. Proceedings, how commenced.
2. Definition of "*judge*" or "*judge of probate*."
3. Judge's jurisdiction as to wills and settlement of estates.
4. Judge's jurisdiction as to guardians.
5. " " as to trustees.
6. " " as to partition.

SECTION

7. Administration, where granted.
8. Other proceedings, where had.
9. Proceedings as to guardians, where.
10. Judge, when disqualified.
11. Who shall act in such case.
12. Records and appeals in such case.
13. Compensation of another judge.
14. Special courts, when.

SECTION

- 15. Compensation of judge.
- 16. Special adjournments, when.
- 17. Depositions may be used, when.

SECTION

- 18. Sheriffs to serve process.
- 19. Court of probate, a court of record.

SECTION 1. All proceedings in the court of probate shall be commenced by petition to the judge, briefly setting forth the ground of the application.

SEC. 2. The words "*judge*" or "*judge of probate*," in this title, shall be construed to mean the judge of probate for the county to whom the jurisdiction of the subject matter belongs.

SEC. 3. Every judge of probate in his county has jurisdiction of the probate of wills and of granting administration, and of all matters and things of probate jurisdiction relating to the sale, settlement and final distribution of the estates of deceased persons.

SEC. 4. Such judge shall have jurisdiction in relation to the appointment and removal of guardians of minors, insane persons and spendthrifts, and in relation to the duties by law imposed on such guardians, and the management and disposition of the estates of their wards.

SEC. 5. He shall exercise original jurisdiction in relation to trustees appointed by will, in the cases prescribed by law.

SEC. 6. He may exercise jurisdiction of all petitions for partition of real estate, in cases where no dispute shall exist in relation to the title thereof.

SEC. 7. The probate of the will and the granting of administration of the estate of any person deceased, shall belong to the judge of probate for the county in which such person was last an inhabitant; but if such person was not an inhabitant of this State, the same shall belong to the judge of probate for any county in which such person had estate.

SEC. 8. All proceedings in relation to the settlement of the estate of any person deceased, shall be had in the probate court of the county in which his will was proved, or administration of his estate was granted.

SEC. 9. All proceedings in relation to the property or estate of any person under guardianship shall be had in the court of probate of the county in which the guardian was appointed.

SEC. 10. No judge of probate shall act as such in the settlement of any estate wherein he is interested as heir or legatee, executor or administrator, or as guardian or trustee of any person.

SEC. 11. In every such case, the judge of probate of any adjoining county shall have jurisdiction, and it shall be his duty, upon application, to attend at some term of the court of probate in which such case may be pending, which shall not interfere with his duties in his own county, and hear and determine such case.

SEC. 12. The records in such case shall be kept, and appeals shall be claimed and allowed, in the county where such case may be pending.

SEC. 13. Such judge of probate shall be allowed three dollars for each day he may be employed in attending such court, and a reasonable compensation for his travel and expenses, which shall be paid by the executor, administrator, guardian or trustee of the estate in relation to which such case may arise, and shall be allowed him on settlement of his account.

SEC. 14. The judge may attend at the dwelling house or in the neighborhood of the residence of any administrator, guardian, trustee or other person who shall be unable, by reason of sickness or other sufficient cause, to attend the court of probate at the time and place appointed by law, in any case in which the personal attendance of such person is required.

SEC. 15. Such judge shall be allowed a suitable compensation for such service and for his expenses, to be paid out of the estate to which such proceeding may relate. .

SEC. 16. The judge may adjourn his court for the trial and decision of any matter pending before him, to any convenient time and place.

SEC. 17. The deposition of any witness or other person who may be required to be sworn before the judge, and who shall live out of the State or more than ten miles from the place of holding the court, or who shall be unable to appear and testify by reason of infirmity or other sufficient cause, may be taken before any person duly authorized by such judge.

SEC. 18. All sheriffs, deputy sheriffs and constables are required to serve and execute any legal process to them directed by a judge of probate.

SEC. 19. The court of probate shall be deemed for all purposes a court of record.

CHAPTER 162.

OF REGISTERS OF PROBATE.

COMPILED FROM

Chapter 153 of the Revised Statutes.

“ 56, Laws of 1843.

“ 840, “ “ 1849.

SECTION

1. Fire-proof safes to be provided.
2. Register's office, where kept.
3. Register's office in Merrimack county.
4. Disqualified to act as appraiser, &c.
5. Registers of probate to furnish blanks.
6. Register to record footing of each class of property.

SECTION

7. Salaries payable on certificate.
8. Fees in cases allowed.
9. Receipts for fees to be given.
10. Blanks, how furnished.
11. Register may adjourn court, when.
12. Residence of register.

SECTION 1. Every county in this State that has not a fire-proof safe belonging to the same, shall provide a suitable fire-proof safe for all records, files and papers of the county, at some suitable place in such county, within one year from the first day of January next; and it shall be the duty of the court of common pleas to appropriate the money necessary for that purpose in all counties destitute of such safe.

SEC. 2. Where any county shall have provided a suitable office with a fire-proof safe, the office of the register of probate, with all the books, records, files and papers belonging thereto, shall be kept therein, and such office shall be kept open daily, Sundays excepted.

SEC. 3. The office of register of probate for the county of Merrimack, with all the records pertaining thereto, shall be kept at Concord in said county.

SEC. 4. No register of probate shall be appointed an appraiser or commissioner, on any estate under administration in the court of probate of which he is register.

SEC. 5. The register of probate in each county in this State shall furnish to all appraisers suitable blanks on which to make their returns, so prepared that estates may be classed under the following heads, to wit;

- Real estate;
- Cash on hand;
- Stock in trade;
- Stock in banks and other corporations;
- Bonds, notes, and other written evidences of debts;
- Live stock;
- Provisions and produce;
- Farming utensils and mechanics' tools;
- Household furniture, books and maps;
- Wearing apparel;
- Miscellaneous articles.

And it shall be the duty of appraisers to class the different articles of the estate under the respective heads, and foot up the amount of each class. (*Laws of 1849, chap. 840, sec. 1.*)

SEC. 6. Registers of probate shall record, in suitable books prepared for that purpose, the amount or footing of each class of property, as specified in the inventory under the several classes aforesaid; also all wills and their probate; all proceedings with regard to real estate; all accounts settled, and all orders, divisions and appointments from which an appeal may be claimed. (*Laws of 1849, chap. 840, sec. 2.*)

SEC. 7. The salaries by law allowed to registers of probate shall be in full compensation for all services which by law they ought to perform in their office, and shall be paid upon furnishing the governor a certificate from the judge annually, on the first day of January, that the records of their courts are made according to law. (*R. S., sec. 6.*)

SEC. 8. Registers of probate shall be entitled to the same fees as other certifying officers, for all copies of record, except such as are required to be used in the court of probate in which such record remains, or in the superior court upon appeal, and such as are necessary for administrators and guardians in the settlement of estates. (*R. S., sec. 7.*)

SEC. 9. Every register of probate, upon request, shall give a receipt for all fees by him received for copies, stating the amount received and for what copies. (*R. S., sec. 8.*)

SEC. 10. Blanks and stationery necessary in doing the probate business, shall be provided by the register at the expense of the county, and the amount shall be paid to him from the county treasury. (*R. S., sec. 9.*)

SEC. 11. In case of any vacancy in the office of judge of probate, or the sickness or necessary absence of the judge at the time of any court of probate appointed by law, the register shall adjourn such court and all proceedings therein from term to term, until such vacancy shall be supplied or the judge shall attend. (*R. S., sec. 10.*)

SEC. 12. It shall be the duty of the registers of probate in the several counties in this State to dwell and have their homes in the towns or places in which the probate records are by law required to be kept, in the several respective counties; and if any register of probate in this State shall, after the lapse of thirty days from the passage of this resolution, dwell and have his home in any other town or place than is provided in this resolution, the office of said register shall thereby become vacant, and shall be held to be vacant, and it shall be the duty of the governor and council, as in other cases, to fill the same. (*Laws of 1843, chap. 56.*)

CHAPTER 163.

OF THE TIMES AND PLACES OF HOLDING COURTS OF PROBATE.

COMPILED FROM

Various Acts establishing the times and places of holding Probate Courts.

SECTION

1. Terms in county of Rockingham.
2. " " " " Strafford.
3. " " " " Belknap.
4. " " " " Carroll.
5. " " " " Merrimack.

SECTION

6. Terms in county of Hillsborough.
7. " " " " Cheshire.
8. " " " " Sullivan.
9. " " " " Grafton.
10. " " " " Coös.

SECTION 1. Courts of probate shall be holden annually at the times and places following, that is to say:

For the county of Rockingham; at Exeter, on the Wednesday following the third Tuesday of February and March, and on the Wednesday following the second Tuesday of every other month:

At Portsmouth, on the third Tuesday of March, and on the second Tuesday of January, May, July, September and November:

At Plaistow, on the first Tuesday of April, August and December:

At Derry, on the Wednesday next following the first Tuesday of April, August and December:

At Chester, on the Thursday next following the first Tuesday of April, August and December:

At Deerfield, on the Friday next following the first Tuesday of April, August and December.

SEC. 2. For the county of Strafford; at Dover, on the first Tuesday of January, February, March, April, September and November; and on the Thursday next preceding the first Tuesday of August:

At Rochester, on the first Tuesday of July and December:

At Farmington, on the first Tuesday of May and October:

At Somersworth, on the first Tuesday of June:

SEC. 3. For the county of Belknap; at Gilford, on the third Tuesday of each and every month.

SEC. 4. For the county of Carroll; at West Ossipee, on the first Tuesday of January, March, May, July, September and November; and at Ossipee Corner, on the first Tuesday of February, April, June, August, October and December; at Ossipee, on the second Tuesday of October.

SEC. 5. For the county of Merrimack; at Concord, on the fourth Tuesday of every month.

SEC. 6. For the county of Hillsborough; at Amherst, on the first Tuesday of every month:

At Francestown, on the Wednesday next following the first Tuesday of January, April, July and October:

At Nashua, on the Wednesday next after the first Tuesday of December and February:

At Temple, on the Wednesday next after the first Tuesday of May and August:

At Manchester, on the Wednesday next after the first Tuesday of March, June, September and November.

SEC. 7. The court of probate for the county of Cheshire shall be holden at Keene on the first and third Tuesdays of each month.

SEC. 8. A court of probate for the county of Sullivan shall be holden annually at Claremont, on the last Wednesday of January, March, May, July, September and November; and at Newport, on the last Wednesday of February, April, June, August, October and December.

SEC. 9. For the county of Grafton; at Haverhill, on the third Tuesday of April and October:

At Plymouth, on the third Tuesday of May and November:

At Canaan, on the third Tuesday of June and December :

At Lisbon, on the third Tuesday of March and September :

At Wentworth, on the third Tuesday of August and February :

At Littleton, on the third Tuesday of January :

At Bristol, on the third Tuesday of July.

Sec. 10. For the county of Coös ; at Colebrook, on the first Tuesday of September :

At Stratford, on the first Tuesday of January :

At Lancaster, on the first Tuesday of March and November, and the second Tuesday of May :

At Bartlett, on the first Tuesday of July :

And at Shelburne, on the first Tuesday of June.

CHAPTER 164.

OF CITATIONS AND NOTICES.

COMPILED FROM

Chapter 155 of the Revised Statutes.

" 34, Laws of 1843.

" 1119, " " 1851.

SECTION

1. Notice, when not required.
2. Citations and notice, when necessary.
3. Personal notice, in what cases.

SECTION

4. Notice in other cases, how given.
5. Special notice may be required, when.
6. Newspaper, selection of.

SECTION 1. The judge of probate may, at discretion, proceed without notice in the following cases :

1. In the probate of wills in common form :
2. In the appointment of such person as administrator, as is by law entitled to such trust, or the person by him nominated :
3. In the appointment of appraisers of estates :
4. In licensing the sale of personal estate :
5. In the appointment of commissioners of insolvent estates :
6. In the appointment of the guardians of minors under fourteen years of age :
7. In granting allowance to widows : (*R. S., sec. 1.*)
8. In assignment of dower to widows. (*Laws of 1843, chap. 34, sec. 14.*)

SEC. 2. In all cases in which notice is required, a citation shall be issued, or an order of notice made to the parties interested in any proceeding in the court of probate, to appear at said court at a certain day and place therein appointed, that they may be heard thereon if they see cause.

SEC. 3. Every citation or order of court to any individual,

requiring him to perform any particular duty, shall be served by giving to him in person or leaving at his usual place of abode a certified copy thereof, if such person shall reside in this State, fifteen days at least before the day of hearing.

SEC. 4. Every citation or order of notice to any person residing out of the State, or to the widow, heirs, devisees, legatees, creditors or persons interested in any estate, in general terms, to be present at any proceeding relative to said estate, shall be served by giving to each person to whom it is directed, or leaving at his usual place of abode, fifteen days before the day appointed for such proceedings, a certified copy of such citation or order of notice, or by publication in some newspaper printed in the county, if any, otherwise in some newspaper printed in the vicinity, three weeks successively, the last publication thereof to be at least thirty days before the day of hearing.

SEC. 5. In addition to the notice prescribed in the preceding sections, the judge may order personal notice, or notice by letter sent by mail, to any person interested, or notice by publication in any newspaper printed elsewhere, as he shall judge proper in the case.

SEC. 6. All persons having business in the several probate courts and at the several probate offices in this State, shall have the right of selecting such newspapers as they may prefer and name for the publication of all legal notices which may be ordered under their application by the several judges of probate; *provided* that if, in the judgment of any judge of probate, the newspaper thus selected shall be deemed insufficient to give due publicity to any such notice, the said judge shall have the right of ordering the publication of such notice in one other paper. (*Laws of 1851, chap. 1119.*)

CHAPTER 165.

OF WILLS.

COMPILED FROM

Chapter 156 of the Revised Statutes.

" 726, Laws of 1848.

SECTION

1. Wills, who may make.
2. Real estate, after acquired, may pass by will.
3. Devise not defeated by disseisin.
4. Whole interest in real estate passes.

SECTION

5. Devise to heirs, does not affect devise for life.
6. Wills, how executed.
7. Soldiers, &c., may make verbal wills.
8. Devise to witness, void when.

SECTION	SECTION
9. Children not named, provision as to.	13. Wills, how revoked.
10. " " " shares how made up.	14. " revoked by change of circumstances.
11. Heirs of devisee, &c., deceased to take.	15. Nuncupative wills, when valid.
12. Widow may waive provision in will.	16. Will of personal estate, how executed.

SECTION 1. Every person of the age of twenty-one years, and of sane mind, may devise and dispose of his property, real and personal, and of any right or interest he may have in any property, by his last will in writing.

SEC. 2. Any estate, right or interest in any real property acquired by the testator after making his will, shall pass thereby, if such shall clearly appear to have been his intention.

SEC. 3. No devise or bequest of any property shall be defeated by any disseizin or wrongful dispossession thereof by any other person.

SEC. 4. Every devise of real estate shall be holden to pass all the estate of the deviser therein, unless it shall clearly appear that it was his intention to pass a less estate.

SEC. 5. No express devise of any estate for life, or other limited estate, shall be enlarged or construed to pass any greater estate, by reason of any devise to the heirs or issue of such person.

SEC. 6. No will shall be effectual to pass any real estate, nor to change, nor in any way to affect the same, unless it is made by a person of the age of twenty-one years and of sound mind, in writing, and is signed and sealed by the testator, or by some person in his presence and by his express direction, and attested and subscribed in his presence by three or more credible witnesses.

SEC. 7. Any soldier in actual military service, or any mariner or seaman being at sea, may dispose of his movables and personal estate as he might heretofore have done.

SEC. 8. Any beneficial devise or legacy made or given in any will to a subscribing witness thereto, shall be void as to such witness and those claiming under him, unless there be three other subscribing witnesses, and he shall be a competent witness thereto; but a provision therein for the payment of any debt shall not be void nor disqualify the creditor as a witness thereto.

SEC. 9. Every child born after the decease of the testator, and every child or issue of a child of the deceased not named or referred to in his will, and who is not a devisee or legatee, shall be entitled to the same portion of the estate, both real and personal, as he would be if the deceased were intestate.

SEC. 10. If the property not devised or bequeathed shall be insufficient to satisfy the just share of such child, after allowing advancements received by him, the same shall be made up in just proportion from the property devised or bequeathed to others.

SEC. 11. The heirs in the descending line of any legatee or devisee deceased before the testator, shall take the estate devised

or bequeathed, in the same manner the legatee or devisee would have taken the same if he had survived.

SEC. 12. The widow of the testator may waive any provision made in his will, and intended to be instead of her dower or distributive share, by a writing filed with the judge, and thereupon such provision shall be void, and her dower and distributive share shall be assigned her.

SEC. 13. No will or clause thereof shall be revoked, unless by some other valid will or codicil, or by some writing executed in the same manner, or by cancelling, tearing, obliterating or otherwise destroying the same by the testator, or by some person by his consent and in his presence.

SEC. 14. The preceding section shall not be construed to control or affect any revocation of a will, implied by law from any change in the circumstances of the testator or his family, devisees, legatees or estate, occurring between the time of making the will and the death of the testator.

SEC. 15. No nuncupative will shall be valid where the personal estate bequeathed shall exceed in value one hundred dollars, unless it was declared in the presence of three witnesses, who were requested by the testator to bear witness thereto in his last sickness, and in his usual dwelling, except when he was taken sick from home and died before his return; nor unless a memorandum thereof was reduced to writing within six days, and presented for probate within six months from the making thereof.

SEC. 16. No will shall be effectual to pass any personal estate, unless the same is signed by the testator or by some person for him by his express direction and in his presence, and attested by three or more credible witnesses; *provided, however*, that any testamentary disposition made by a soldier in actual military service, or by a mariner or seaman at sea, and any nuncupative will which would be held valid under the laws now in force, shall be held and adjudged to be valid and effectual, in the same manner and to the same extent as if this act had not been passed. (*Laws of 1848, chap. 726.*)

CHAPTER 166.

OF THE PROBATE OF WILLS.

IDENTICAL WITH

Chapter 157 of the Revised Statutes.

SECTION

1. Probate necessary and conclusive.
2. Wills to be delivered to the court.
3. Executors to prove wills or refuse.
4. Penalty for neglect.
5. Refusal to deliver will, punished.
6. Probate in common form.
7. Probate in solemn form.
8. Notice in such case.

SECTION

9. Minors, &c., allowed two years.
10. Probate on application of widow, &c.
11. No probate in solemn form till guardians appointed.
12. Proof in case attesting witnesses are incompetent.
13. Filing of wills proved elsewhere.
14. Notice in that case to be given.

SECTION 1. No will shall be effectual to pass either real or personal estate, unless it has been duly proved and allowed in the court of probate; and the probate of a will devising real estate shall be conclusive as to its due execution, as in case of a will of personal estate.

SEC. 2. Every person having the custody of any will shall within thirty days after he has knowledge of the decease of the testator, deliver the same to the court of probate, or to the person who is named therein as executor.

SEC. 3. Every person named as executor of any will shall within thirty days after the decease of the testator, or within thirty days after he has knowledge that he is so named, cause such will to be proved, or file the same in the probate office with his refusal in writing to accept the trust.

SEC. 4. Any person who shall neglect any of the duties required by the two preceding sections, shall, unless he shall give an excuse satisfactory to the court of probate, forfeit the sum of twenty dollars for each month he shall so neglect after said thirty days, to be recovered by any person having an interest in such will.

SEC. 5. If any person, having in his custody any will, shall neglect to deliver the same to the court of probate, after being duly cited for that purpose, he may be imprisoned by warrant issued by said court until he shall deliver it.

SEC. 6. If the probate of a will is not contested, the judge may allow and approve the same in common form, upon the testimony of one of the subscribing witnesses thereto, though the others may be living and within the process of the court.

SEC. 7. Any party interested shall be entitled to have the probate of any will, which has been proved without notice, reëxamined, and the will proved in solemn form before the court of probate

at any time within one year of such probate, if no appeal from such probate has been prosecuted before the superior court.

SEC. 8. A petition for that purpose may be presented to the judge, and notice given to the executor personally, if practicable, and duly published; and if upon such hearing and reëxamination the probate shall not be confirmed, the will and probate shall be void.

SEC. 9. Any minor, insane person, married woman, or person out of the United States, or their legal representatives, shall be entitled to have the probate of any will, proved without notice, reëxamined at any time within one year after the removal of the disability.

SEC. 10. If any will filed in the probate office shall not be presented for probate by the executor or by any person interested therein, the judge, on application of the widow or any heir of the deceased, and due notice thereof having been given, may approve and allow or disallow the same, and the decree so made shall be of the same force as if made on application of the executor or of any person interested in such will.

SEC. 11. No decree approving and allowing or disallowing any will shall be made in solemn form until guardians shall be appointed for all minors and others interested therein, who are incapacitated to take care of their estates, and agents appointed by the judge for all persons interested who reside out of the State or are unknown.

SEC. 12. If the attesting witnesses shall, after the execution of any will, become incompetent from any cause, the same may be proved and allowed upon other satisfactory evidence.

SEC. 13. A copy duly authenticated of any will executed with the formalities required by the laws of this State, which has been proved and allowed in a court of probate in any of the United States, or in any foreign country pursuant to the laws thereof, and a copy of the probate of such will may by a decree of the judge be filed and recorded in the probate office, and such decree shall have the same effect as the probate of such will would have.

SEC. 14. The executor, or any person interested, may produce such copies to the judge of any county in which there is estate on which the same may operate, and in writing request that the same be so filed and recorded; and if upon due notice no sufficient objection be made, such copies shall be decreed to be filed and recorded as aforesaid.

CHAPTER 167.

OF ADMINISTRATION.

IDENTICAL WITH

Chapter 158 of the Revised Statutes.

SECTION

1. The word "*administrator*" defined.
2. Administration, to whom granted.
3. Not to minors or persons incapable.
4. Not to persons out of the State, unless.
5. Nor to persons not entitled, till thirty days.
6. Minors coming of age may be appointed.
7. In cases of vacancy, who appointed.
8. Executor of executor not to administer.

SECTION

9. Married woman not to administer.
10. Administration, when revoked.
11. Revocation by consent.
12. Administrator to give bond, and the conditions.
13. Residuary legatee, bonds by.
14. Administrator to give notice of appointment.
15. Executors of their own wrong, liable.

SECTION 1. The word "*administrator*" in this title may be construed to include every person to whom the administration of any estate or the execution of any will may in any case be granted.

SEC. 2. Administration of the estate of any person deceased shall be granted, first, to the executor named in the will of said deceased; secondly, to the widow or any of the next of kin, or such suitable person as they may nominate; thirdly, to one of the devisees or creditors; and fourthly, to such other person as the judge may think proper.

SEC. 3. No person not of full age, or deemed by the judge of probate incapable, shall be appointed to administer any estate.

SEC. 4. No person not an inhabitant of this State shall be so appointed by reason of any right to such trust, unless other circumstances in the opinion of said judge render the same proper.

SEC. 5. No person shall be appointed to administer any estate until the several persons previously entitled thereto shall have either voluntarily renounced such trust in writing, or have neglected for thirty days after the decease of any person upon whose estate administration is to be granted, to apply for such administration.

SEC. 6. If any minor appointed executor, shall come of age and request it, administration on the estate not before administered shall be granted to him; and the administration before granted shall be revoked, unless the same was granted to a coexecutor, in which case such minor shall be a joint executor.

SEC. 7. If the administration on any estate shall become vacant by death, extinguishment or revocation, the judge of probate may grant administration on the estate not before administered, to such person as he may think proper, having due regard to the rules aforesaid.

SEC. 8. The executor of an executor shall not, in consequence thereof, become the executor of the first testator.

SEC. 9. If any executrix or administratrix shall marry, her husband shall not thereby become executor or administrator in her right, but such marriage shall operate as an extinguishment of the trust.

SEC. 10. If any executor or administrator by reason of absence, or any infirmity of body or mind, or by wasteful or fraudulent management in his trust, shall become unfit for the discharge thereof, or unsafe to be trusted therewith, the judge of probate, upon due notice given, may revoke such administration.

SEC. 11. Such trust may be revoked under any circumstances, with the consent of the executor or administrator, when it shall appear to the judge to be proper.

SEC. 12. No person shall intermeddle with the estate of any person deceased, or act as the executor or administrator thereof, or be considered as having that trust, until he shall have given bond to the judge, with sufficient sureties, in such reasonable sum as he shall approve, upon condition :

First, To return to the said judge a true and perfect inventory of the estate of the deceased, upon oath, within three months from the date of the bond ;

Second, To administer the said estate according to law ;

Third, To render to the said judge an account of administration, upon oath, within one year ;

Fourth, To pay and deliver all the rest and residue of the estate which shall be found remaining upon the account of such executor or administrator, unto such person or persons respectively, as said judge by his decree according to law shall limit and appoint ;

Fifth, To deliver the letters of administration into the court of probate, in case any will of the deceased shall thereafter be approved and allowed.

SEC. 13. If the executor to whom administration shall be granted shall also be residuary legatee, and if there be no widow, or if there being a widow, she inform the judge in writing that she accepts the provisions of the will, a bond with sufficient sureties may be taken from him, with condition only to pay the funeral charges, debts and legacies, and to render upon oath an account of his proceedings therein, when thereto lawfully required.

SEC. 14. Every administrator shall, within three months after his appointment, post up notice thereof at some public place in the town where the deceased dwelt, if in this State, and shall cause the same to be published in some newspaper printed in the vicinity.

SEC. 15. If any person shall unlawfully intermeddle with, embezzle, alienate, waste or destroy any of the personal estate of a deceased person, he shall stand chargeable and be liable to the actions of the creditors and others aggrieved, as executor in his own wrong, to double the value of the estate so intermeddled with, embezzled, alienated, wasted or destroyed.

CHAPTER 168.

OF THE INVENTORY AND ACCOUNTS.

IDENTICAL WITH

Chapter 159 of the Revised Statutes.

SECTION

1. Inventory to be filed.
2. Inventory, how made.
3. What not included in inventory.
4. All assets to be accounted for.
5. Personal property may be sold.
6. Property not sold, in what cases.
7. Debts to be accounted for.
8. Debts may be compromised, when.
9. Debts of administrator, how adjusted.
10. Profits of real estate, when accounted for.

SECTION

11. Mortgaged property to be redeemed.
12. License for sale of real estate obtained.
13. Real estate set off on execution, how vested.
14. Charges on estate, what are.
15. What expenses chargeable to estate.
16. Gravestones chargeable to estate.
17. Claims, how proved against estate.

SECTION 1. Every executor and administrator, within three months after his appointment, shall return to the probate office, under oath, a true inventory of all the estate of the deceased, including his real estate, goods and chattels, together with a correct schedule of his notes and other written evidences of debts, that shall have come to the knowledge of such executor or administrator.

SEC. 2. It shall contain a just and impartial appraisement of said real estate, goods and chattels, and a correct schedule of said notes and written evidences of debts, to be made by three suitable persons to be appointed by the judge, and sworn before a justice to their fidelity and impartiality therein.

SEC. 3. The wearing apparel and ornaments of the widow according to the estate of her husband, and the wearing apparel of the minor children, if any, are their property, and shall not be included in the inventory, nor, if there be a widow, the wearing apparel of the deceased, which shall be her property.

SEC. 4. All assets, though not inventoried, shall be accounted for, and the executor or administrator shall be charged therewith in the account of administration.

SEC. 5. All goods and chattels shall be accounted for at the appraised value, unless the same shall be sold at auction by license of the judge, which may be granted at any time within six months after the date of the bond, and in that case the administrator giving the notice prescribed in such license, and conducting with fidelity and impartiality in the sale, shall be credited with the loss or charged with the gain upon such sale.

SEC. 6. Personal property specifically bequeathed, shall not be sold, if it is not needed for the payment of the debts; and any property may be reserved at the sale, unless so needed, for the benefit or upon the request of the heirs or legatees, and the administrator shall be discharged by delivery thereof to the persons entitled thereto.

SEC. 7. All debts due to the estate, which by due diligence might have been collected, shall be accounted for in money.

SEC. 8. Any debt due from any insolvent person may be compromised and discharged on payment of such part thereof as the administrator may deem proper, and the administrator shall be chargeable only for the amount received.

SEC. 9. Debts due from the administrator to the estate shall be considered as assets and be accounted for as other debts. If such debt is specifically bequeathed to him, his right thereto shall be the same as that of any legatee; and the judge after due notice shall liquidate and adjust all debts and claims due to the administrator or from him to the estate.

SEC. 10. The administrator shall receive the rents and profits of the real estate, in case the estate is insolvent, and shall keep the same in repair, and shall account for the net proceeds thereof in his administration account.

SEC. 11. The administrator, if there are sufficient assets, shall redeem all property of the deceased under mortgage, pledge or levy of execution for less than its value, or which, if unredeemed, would diminish the value of the estate, unless he shall by license sell the same subject to such incumbrance, and the neglect so to redeem shall be deemed mal-administration and waste.

SEC. 12. Every administrator shall apply for and procure license for the sale of so much of the real estate as may be necessary to pay the debts and legacies, if the personal estate is insufficient; and neglect or refusal to obtain such license, or to make such sale, or to account for the proceeds thereof, or fraudulent conduct therein, shall be deemed mal-administration and a breach of his bond.

SEC. 13. Real estate purchased by or set off to any administrator, in order to secure or satisfy any debt due to the estate, shall vest in the heirs in the same manner as if the deceased had died seized thereof, and shall be subject to be sold for the payment of debts and demands with which the estate is chargeable, and to be divided and apportioned according to the just claims of the widow, heirs, devisees and legatees.

SEC. 14. The estate of every person deceased shall be chargeable with,

1. The just expenses of the administration thereof;
2. The necessary expenses of the funeral of the deceased;
3. A reasonable allowance to the widow, as by law provided;
4. The just debts owed by the deceased;
5. The support and maintenance of the infant children of the

deceased until they arrive at the age of seven years, if the estate is in fact solvent.

6. The legacies given by the will of said deceased.

SEC. 15. The expenses of assigning the widow's dower, of the division and assignment of the real estate, and of appointing guardians of minors and others incapacitated to take care of their interest, whether heirs or legatees, shall be chargeable as expenses of administration.

SEC. 16. Administrators of estates actually solvent may erect suitable monuments at the graves of the testators or intestates, and the reasonable expense thereof shall be allowed them on settlement of their accounts.

SEC. 17. All claims against any estate shall, if required by the administrator, be exhibited under oath as follows :

" I do solemnly swear that, according to the best of my knowledge and belief, the above is a true statement of my claim against the estate of late of and that I have not on my books or elsewhere, any credit or any knowledge of any credit that should be allowed against my claim, except what is stated in the foregoing account. So help me God."

And a certificate of such oath shall be annexed to such claim.

CHAPTER 169.

OF EMBEZZLEMENTS.

IDENTICAL WITH

Chapter 160 of the Revised Statutes.

SECTION

1. Persons suspected may be cited.
2. Refusal to answer, how punished.

SECTION

3. In case of guardianship, proceedings.

SECTION 1. Any person suspected and complained of by any administrator, heir, legatee, or creditor of a person deceased, to have concealed, embezzled or conveyed away any of the personal estate of the deceased, may be cited to appear before the judge and be examined under oath for the discovery of the same.

SEC. 2. If such person so cited shall refuse to appear, or appearing refuse to answer interrogatories upon oath respecting such estate, the judge may by warrant commit him to the common jail, there to remain until he shall consent to answer such interrogatories, or be released by the complainant or by order of the superior court of judicature.

SEC. 3. On a like complaint of any guardian in relation to any property of his ward, or on complaint of any creditor, relative or friend or such ward, like proceedings may be had.

CHAPTER 170.

OF SUITS BY AND AGAINST ADMINISTRATORS.

IDENTICAL WITH

Chapter 161 of the Revised Statutes.

SECTION

1. No action to be brought within one year, nor before demand.
2. Claim to be exhibited within two years.
3. Suspension of administration, excluded.
4. Not if estate represented insolvent.
5. No action will lie after three years.
6. Demands depending on a contingency.
7. Action may be brought within two years.
8. No action lies, where estate insolvent.
9. Except actions of review.
10. Actions brought by person as administrator, who is not such.

SECTION

11. Suits by and against, not abated by death.
12. Administrators not liable to arrest, nor estate to attachment.
13. Unless upon a return of waste.
14. Estate liable on joint demands.
15. Administrator may sue his co-administrator.
16. Actions surviving may be prosecuted or defended.
17. Administrator defaulted on *scire facias*.
18. Administrator entitled to one continuance.
19. Administrator may maintain real actions, in what cases.
20. Administrator may prosecute suits pending at decease.

SECTION 1. No action shall be sustained against any administrator, if commenced within one year after the original grant of administration, nor unless the demand shall have been exhibited to the administrator and payment demanded.

SEC. 2. No such action shall be sustained, unless the demand shall have been exhibited to the administrator within two years after the original grant of administration.

SEC. 3. If the administration on any estate shall be suspended, any demand may be exhibited within two years, exclusive of the time of such suspension.

SEC. 4. If the estate has been represented insolvent within said two years, no such exhibition thereof shall be necessary to entitle the creditor to have the same allowed by the commissioner.

SEC. 5. No suit shall be maintained against any administrator for any cause of action against the deceased, unless the same is commenced within three years next after the original grant of

administration, exclusive of the time such administration may be suspended, except in cases where he shall have retained estate in his hands for the payment of such claim by order of the judge.

SEC. 6. Demands against such estate not due or depending on any contingency, may be filed in the court of probate, and the judge after due notice may require the administrator to retain in his hands, on settlement of his account, such sum as may be necessary to pay the same, unless the widow, heirs or legatees shall give bond to the judge for the payment thereof when such contingency shall happen, to the extent of the assets received by them respectively.

SEC. 7. If the right of action existed against or in favor of the deceased at the time of his death, and survives, an action may be brought by or against the administrator, at any time within two years after the original grant of administration.

SEC. 8. No action shall be commenced or prosecuted against an administrator where the estate is decreed to be administered as an insolvent estate; but the cause of action may be presented to the commissioners and allowed, with the costs of any action pending at the time of such decree.

SEC. 9. Actions of review may be prosecuted notwithstanding such insolvency, and the amount recovered against the estate shall be added to the list of claims by the judge, and the court shall issue no execution therefor.

SEC. 10. Any person interested in the estate of any person deceased, may commence an action as administrator thereof, which shall not be abated nor the attachment lost by reason that such person is not administrator thereof, nor by his decease, if the administrator then or afterwards appointed shall, at the first or second term of the court, endorse the writ and prosecute the same as plaintiff.

SEC. 11. Suits in which an administrator is party, shall not be abated by reason of his death, or of the extinguishment or revocation of his trust, but may be prosecuted or defended by the administrator who may succeed to the trust, who may be called into court by scire facias, in the same manner and with the like effect as in cases of the death of other parties.

SEC. 12. Writs of attachment and execution against administrators, where the cause of action was against the person deceased, shall run only against the goods or estate of the deceased, and the administrator shall not be arrested or his estate attached or levied upon in such action.

SEC. 13. Upon return of "no goods" or "waste" made by the sheriff on such execution, an execution may be awarded on scire facias against the goods, estate and person of the administrator, as for his own debt, to the amount of such waste, if it can be ascertained, otherwise for the whole debt.

SEC. 14. The estate of any person deceased and the administrator thereof shall be liable upon joint demands against the

deceased and any other person, as they would be if such demands were joint and several, unless it shall appear that it was the intention of the parties that the survivor only should be liable.

SEC. 15. A joint administrator or guardian may have an action of account or assumpsit against the other administrator or guardian who shall refuse to apply the estate in his hands to the discharge of the just demands against the same, or who shall refuse to account therefor, and shall recover the amount thereof to which he shall be entitled.

SEC. 16. Every administrator may prosecute or defend any action pending in any court against the deceased in case the cause of action does by law survive; and in such case any appeal or writ of review to which such deceased person was entitled, or which might be prosecuted against him at the time of his decease, may be prosecuted by or against such administrator.

SEC. 17. If such administrator, having been duly served with a scire facias, shall neglect or refuse to become a party to the suit, judgment may be rendered against the estate of the deceased in the same manner as if the administrator had voluntarily become a party to the suit.

SEC. 18. In all cases where an administrator shall become a party to a suit then pending, he shall be entitled to one continuance of course.

SEC. 19. The administrator may, as such, maintain any action necessary and proper to be brought in relation to real estate set off to him for debts due the estate, and to the real estate of the deceased in cases of insolvency, until the administration is closed.

SEC. 20. The administrator, as such, may prosecute and defend all real actions pending at the decease of the testator or intestate, and may within one year after such decease, bring a review of any real action in which there shall be a right of review at such decease, and prosecute the same for the use of the persons interested in such estate.

CHAPTER 171.

OF INSOLVENT ESTATES.

COMPILED FROM

Chapter 162 of the Revised Statutes.

" 1110, Laws of 1851.

SECTION

1. Decree of insolvency and appointment of commissioner.
2. Commissioner to give notice.

SECTION

3. Time for presentment of claims.
4. Last sitting, when to be.
5. Commissioner to be sworn.

SECTION

6. Commissioner to swear witnesses.
7. " to allow demands not payable when allowed.
8. Commissioner to allow interest.
9. " to allow offsets.
10. Collateral security estimated.
11. If creditor dissatisfied, proceedings.
12. Judge may allow further time.
13. " " appoint substitute.
14. List of claims to be reported.
15. " " may be corrected.
16. Claims of administrator, how allowed.
17. " " " may be re-ferred.

SECTION

18. Preferred claims, what are such.
19. Claims for last sickness allowed.
20. Dividend of residue to be decreed.
21. " how made out.
22. " on after accounts settled.
23. Residue of estate, how settled.
24. Commissioner's compensation.
25. Where no property, administrator discharged.
26. Of administration in this State of estate of person deceased, resident in another State.
27. Of claims allowed in another state.

SECTION 1. The estate of any person deceased may on application of the administrator be decreed to be administered as an insolvent estate, and one or more persons not exceeding three, shall be appointed commissioners to examine and allow the claims of the creditors against the estate.

SEC. 2. The commissioner shall give notice of the times and places by him appointed to examine and allow such claims, in such manner as the judge shall in his commission direct, and shall in his report state the times and places of meeting and the manner of giving notice thereof, and file in the probate office satisfactory evidence of such notice.

SEC. 3. A time not less than six nor more than nine months from the date of such commission, shall be prescribed by the judge therein, for the creditors to bring in and support their claims against such estate.

SEC. 4. The last session of the commissioner shall be within the last seven days of the time prescribed in his commission.

SEC. 5. Before any person shall enter upon the duties of commissioner, he shall be sworn to the faithful and impartial discharge thereof, and a certificate of such oath shall be written on the back of the commission.

SEC. 6. The commissioner shall have power to swear witnesses, and, if he deems it expedient, to examine on oath the creditor touching any claim exhibited to him for allowance.

SEC. 7. The commissioner shall examine and allow all just demands which the deceased owed, that shall be exhibited to him, although such demands may not be payable at the time of such allowance.

SEC. 8. He shall allow interest on demands carrying interest to the expiration of the commission, and on demands not ordinarily carrying interest, to the same time, from the death of the testator or intestate; but from demands not payable and not on interest he shall discount such sum as will reduce them to their just present value.

SEC. 9. When there are mutual demands between the deceased and the person claiming as a creditor, which, if due, might be legally or equitably offset against each other, the commissioner, if there is a balance in favor of such creditor, shall consider such mutual demands and allow the creditor only the balance justly due.

SEC. 10. If any creditor holds collateral security for his debt of less value than such debt, the commissioner shall estimate the value of such security and allow him only the difference between such sum and his debt, and shall return with his report and give to such creditor on request, a certificate of such estimate.

SEC. 11. If the creditor, being dissatisfied with such estimate, shall relinquish his interest in such security, and deliver up the same to the administrator, the property thus surrendered shall, under the direction of the judge, be sold or disposed of by the administrator and the proceeds paid to the creditor, and the difference between the sum so paid him and the amount of his claim shall be inserted upon the list of claims in place of the sum allowed by the commissioner.

SEC. 12. For a sufficient cause the judge may allow a further time or times to the creditors, not exceeding in the whole two years from the date of the original commission, in which case the notice originally ordered shall be renewed and such further notice given as the judge shall order.

SEC. 13. If, during the pendency of any such commission, any commissioner shall be incapacitated or prevented from discharging the duties thereof, the judge may in any stage of the proceedings substitute some other person to complete such duties, who shall be sworn as aforesaid, or in such case, for good cause shown, may set aside the commission and issue a new one which shall be deemed and taken as the original commission.

SEC. 14. At the end of the time limited in the commission, the commissioner shall make his report to the probate office, and present a list of all the claims presented for allowance and the amount allowed thereon.

SEC. 15. At any time before the decree of distribution, any errors happening in the report may by leave of the court be corrected by the commissioner; but no claim shall be diminished without notice to the creditor or his agent, nor increased without notice to the administrator, and no new claim shall be inserted by virtue of this provision.

SEC. 16. Claims of the administrator against the estate shall not be examined or allowed by the commissioner, but the same shall be examined and allowed, if just, by the judge on the settlement of his administration account, and added to the list of claims; notice of such claim being given in the citation to the heirs and others to hear such account.

SEC. 17. If such claim is contested by any heir or creditor, the judge, unless the parties shall agree in writing that he shall decide

it, shall refer the same to one or more referees, whose report, when accepted by the judge, shall be final, and the amount allowed placed on the list of claims.

SEC. 18. The expenses of administration, the necessary charges for the burial of the deceased, the allowance made by the judge to the widow out of the personal estate, and all rates and taxes shall be allowed by the judge and first paid, giving preference to them in the order in which they are here placed.

SEC. 19. The claims for the last sickness of the deceased shall be designated as such in the commissioner's report, and shall be paid in full if the balance in the hands of the administrator, after the other payments before directed are made, is sufficient, otherwise such balance shall be distributed ratably to the creditors of such debts in proportion to their respective claims.

SEC. 20. If, after payment in full of the claims before mentioned, any balance shall remain in the hands of the administrator, it shall be decreed to be distributed among the other creditors in proportion to their respective claims allowed as aforesaid, or in full payment thereof, with interest.

SEC. 21. Such decree shall contain the names of the creditors, the sums allowed them, and the sums they are respectively entitled to receive from the administrator on such estate.

SEC. 22. The balance on any second or further account rendered on such estate, shall be distributed in like manner until the creditors shall have received the sums allowed them in full, with interest, if the estate shall so far extend.

SEC. 23. If any thing shall remain after payment of the preferred claims, the debts due from the estate and for the support of the children, if any under seven years of age, such residue shall be distributed among the legatees or heirs according to law.

SEC. 24. The administrator shall pay the commissioners a reasonable compensation for their services, which shall be allowed by the judge on settlement of the account of administration.

SEC. 25. If the estate of any person deceased, after deducting the allowance made to the widow, shall be expended in defraying the expenses of the last sickness and funeral of the deceased, and expenses of administration, the administrator on settlement of his account shall be wholly discharged by decree of the judge from all claims of the creditors against such estate, without any other proceedings whatever.

SEC. 26. In case administration be taken in this State on the estate of any person who was at his decease an inhabitant of any other state, and in case such person died insolvent, his estate found in this State shall, as far as practicable, be so disposed of that all his creditors, here and elsewhere, may receive each an equal share, in proportion to their respective debts. (*Laws of 1851, chap. 1110, sec. 1.*)

SEC. 27. If it should be made to appear to any judge of probate in this State, that claims have been duly proved against said

deceased person in any other state, he shall be required to receive a certified list of such claims when perfected in another state, and add the same to any list of claims which may have been proved within his own jurisdiction against said deceased person, so that said judge of probate may be enabled to make a just distribution of the property found in the State among all the creditors: *provided*, that the benefits of this act (this and the preceding section) shall not be extended to the creditors of any state, if the property of such deceased person there found shall not be equally apportioned to the creditors residing in this State, with other creditors, according to their respective debts. (*Laws of 1851, chap. 1110, sec. 2.*)

CHAPTER 172.

OF APPEALS FROM COMMISSIONERS.

COMPILED FROM

Chapter 163 of the Revised Statutes.

“ 137, Laws of 1844.

SECTION

1. Creditor may appeal, how and when.
2. Appeal, how prosecuted.
3. Administrator may appeal.
4. Heir may appeal, how and when.
5. Creditor, how to prosecute his claim.
6. Pleadings and proceedings, what.
7. Creditor not prosecuting, barred.
8. Administrator to recover costs, when.
9. Creditor admitted to defend, when.

SECTION

10. Judgment, how certified, by court.
11. No review on such appeal.
12. Claim may be referred.
13. Award, proceedings on.
14. Claims not barred against heirs, when.
15. Sureties not liable for dividends after one year.
16. Demands not presented or allowed, barred.

SECTION 1. Any creditor dissatisfied with the decision of the commissioners upon any claim by him exhibited, may appeal therefrom by petition to the judge, filed in the probate office within thirty days after the acceptance of their report, and shall file therewith a declaration in proper form upon his claim.

SEC. 2. The judge shall order the administrator to be served with a copy of such petition and declaration, and the creditor shall enter his action at the next court of common pleas, and produce attested copies of such petition, declaration and order of notice, and evidence of compliance with such order.

SEC. 3. If the administrator is dissatisfied with the allowance of any claim, he may appeal therefrom by petition to the judge, filed in the probate office within thirty days after the acceptance of the report; and if the creditor, or his agent or attorney, is not present to take notice thereof, the judge shall order notice thereof to be given to the creditor.

SEC. 4. If any heir or creditor to an estate is dissatisfied with the allowance of any claim, he may appeal therefrom, in the same manner the administrator is now authorized to appeal, first filing in the probate office a bond, to the satisfaction of the judge, conditioned to indemnify the estate from any cost or damage that may accrue in the prosecution of said appeal. (*Laws of 1844, chap. 137.*)

SEC. 5. The creditor being notified of such objection, shall file his declaration within thirty days after, and serve a copy thereof upon the administrator, and prosecute the same in the manner prescribed when a creditor shall appeal.

SEC. 6. Upon such declaration such pleadings may be made, issues joined and proceedings had as the court may direct or allow.

SEC. 7. If the creditor shall fail to enter his action in manner aforesaid, or to recover judgment thereon, his demand shall be forever barred, and whatever was allowed by the commissioners shall be struck from the list of claims.

SEC. 8. The administrator shall recover costs, if the creditor fail to enter his action upon filing a complaint, or if the creditor appealing fail to recover more than was allowed by the commissioner. If the appeal was taken by the administrator, the creditor shall be allowed his costs, if the amount allowed him by the commissioner is not reduced.

SEC. 9. Any creditor may be admitted to defend such action with or without the administrator, giving such security for costs as the court may order.

SEC. 10. The judgment of the court of common pleas shall be certified to the judge of probate, and the amount recovered by the creditor, including costs, shall be added to the list of claims, and the sum allowed by the commissioner, if any, struck therefrom.

SEC. 11. There shall be no review of any judgment rendered on an appeal from the judgment of commissioners.

SEC. 12. If the creditor and administrator in either of the cases aforesaid shall, within said thirty days, agree before the judge to submit the disputed claim to referees, a rule therefor shall be granted, and their report being accepted by the judge shall be final.

SEC. 13. The amount awarded by such referees shall be added to the list of claims, and the sum allowed by the commissioner struck therefrom, and the costs of reference may be allowed to either party by the judge in his discretion; and if allowed to the creditor, shall be added to the list of claims, and if to the administrator, the judge shall issue his warrant of distress therefor.

SEC. 14. The remedy of any creditor against the heirs or devisees of any estate, upon any claim which could not be allowed by the commissioners, because it depended upon a contingency which did not happen during the pendency of such commission, shall not be barred by any neglect to present the same to the commissioners.

SEC. 15. No surety of any administrator of an insolvent

estate shall be liable for the sum decreed to be paid to any creditor, unless a suit therefor shall be commenced against him within one year from the making of the decree, if the creditor had notice thereof within six months after such decree.

SEC. 16. All demands against any estate which might be presented to the commissioners, and were not so presented, and all demands so presented and rejected, and not allowed upon an appeal as aforesaid, shall be forever barred.

CHAPTER 173.

OF LICENSE TO SELL REAL ESTATE.

IDENTICAL WITH

Chapter 164 of the Revised Statutes.

SECTION

1. License to sell, when granted.
2. " may include the reversion of dower.
3. " may include whole estate, when.
4. " not granted, if bond given.
5. Judge may limit amount and tracts.
6. Sale of timber, &c., when licensed.

SECTION

7. Judge may require new bond.
8. Administrator's oath, form of.
9. Sale and conveyance, how made.
10. License when contract to convey.
11. " where sale authorized by will.
12. Fraud in sale is breach of bond.
13. Evidence of sale, how perpetuated.
14. Sale must be within two years.

SECTION 1. The judge of probate, on application of the administrator, may grant license for the sale of the real estate of any person deceased, or of lands purchased or set off to the administrator in payment of debts due to the estate, when the personal property shall be insufficient to pay the just demands by law chargeable to the estate.

SEC. 2. Such license may extend to the reversion of the widow's dower or to any interest in land whatever; but any other estate, except a present fee, shall be particularly specified in the application, notice and license.

SEC. 3. If the real estate is so situated that a part thereof cannot be sold, without injury to the persons interested therein, license may, on application, be granted to sell the whole of such estate, though it may be more than sufficient for the payment of said demands.

SEC. 4. No such license shall be granted, if the heirs or devisees will give to the judge a bond, with sufficient sureties for the payment of such just demands and to indemnify the administrator therefrom.

SEC. 5. The judge in such license shall fix the sum of money to be raised by such sale, and may, when he shall judge it expedient, specify the tracts or parcels to be sold.

SEC. 6. The judge may grant license to any such administrator to sell the timber or wood growing or standing on any real estate of the deceased, whenever the sale thereof, separate from such real estate, shall be beneficial to the persons interested; and such timber or wood shall be deemed to be real estate.

SEC. 7. The judge, either before or after any license to sell real estate is granted, may require from such administrator a bond, with sufficient sureties, to account for the proceeds of such sale in such manner as the judge shall order.

SEC. 8. The administrator, before proceeding to act under any license, shall take the following oath:

"I, _____ do solemnly swear that in disposing of such estate of _____ deceased, as I am licensed to sell, I will use my best judgment in fixing on and advertising the time and place of sale, and will exert my utmost endeavors that the same shall be sold in such manner as will be of the greatest advantage to the persons interested in said estate, without any sinister or selfish views whatever. So help me God."

A certificate of such oath shall be filed in the probate office before the settlement of the account of administration.

SEC. 9. Every such sale shall be made at public auction, and the administrator so authorized and sworn, and having so advertised and sold, may execute and deliver a valid conveyance of the estate sold to the purchaser, being the highest bidder, his heirs and assigns.

SEC. 10. When any person deceased shall have contracted in writing to convey real estate, and was prevented from making such conveyance by death, and the party contracted with has performed or is ready to perform the condition of such contract, the judge may grant a license to the administrator to make such conveyance as the deceased, if alive, would be bound to make.

SEC. 11. When it shall clearly appear by the will of any person deceased, to have been his intention that his executor should dispose of his real estate for any lawful purpose, but the words used are insufficient for that purpose, or when the estate shall be administered by some other person than the executor named therein, the judge may grant license to the administrator to sell the same, for the purpose and in the same manner intended by the testator.

SEC. 12. In all cases, fraudulent conduct in the sale of real estate, misappropriation of the proceeds thereof, or refusal to account for the same, shall be a breach of the administrator's bond.

SEC. 13. Any administrator, purchaser, or person interested, may petition the judge to perpetuate the evidence of any facts set forth in such petition, relative to any proceeding connected with such administration, and the judge after due notice may decree

that all or any of said facts are proved, and such decree shall be conclusive evidence of those facts.

SEC. 14. No license shall be available to sustain any sale made by any administrator under the same, unless made within two years from the granting thereof.

CHAPTER 174.

OF CONVEYANCE OF REAL ESTATE WHEN WIFE INSANE.

IDENTICAL WITH
Chapter 1097, Laws of 1851.

SECTION

1. Manner of conveying real estate when wife is insane.

SECTION

2. Citation to whom issued; judge may grant license; conveyance bar to claim of wife.

SECTION 1. When any married man whose wife may be insane, and shall have continued insane for the space of one full year, may wish to sell and convey any of his real estate, he may, by petition, apply to the judge of probate for the county in which he may reside, for a license to sell and convey the same in such a manner as to bar any claim or right of dower which his said insane wife might otherwise have therein.

SEC. 2. Upon the filing of said petition, a citation shall issue to the friends of said insane wife, and all interested, in the way and manner usually practised in probate courts; and if, after a hearing had, the judge shall be satisfied that the interests of all concerned would be promoted by such sale and conveyance of the whole or any part of the petitioner's real estate, he is fully authorized and empowered to grant such license, and any conveyance made under and by virtue of such license shall be a complete bar to any claim of the said insane wife to dower in the premises so conveyed.

CHAPTER 175.

OF THE WIDOW'S ALLOWANCE, DOWER AND DISTRIBUTIVE SHARE.

COMPILED FROM

Chapter 165 of the Revised Statutes.

" 138, Laws of 1844.

SECTION

1. Allowance to widow.
2. " " " of testator.
3. Dower of lands of which husband died seized.
4. Dower not of unimproved lands.
5. " how estimated.
6. " when specially assigned.
7. Waste in dower forbidden.

SECTION

8. Widow's share, testator without issue.
9. " " intestate " "
10. " " property in her right.
11. " " none, if settlement made.
12. " " intestate leaving issue.
13. " " testator " "
14. Share of widow in personal property.

SECTION 1. The judge of probate may make to the widow of any person deceased, intestate or testate, the widow not being mentioned in such deceased person's will, a reasonable allowance out of the personal estate for her present support, and in the decree of distribution of the estate, the whole or such part thereof as the judge may deem reasonable, shall be accounted as part of her share. (*R. S., sec. 1, amended by laws of 1844, chap. 138.*)

SEC. 2. If the widow of any person deceased testate shall waive the provision made for her in the will, the judge may make to her a similar allowance.

SEC. 3. The widow of every person deceased shall be entitled to her dower in the real estate of which her husband died seized, to be assigned to her by the court of probate in one or more parcels thereof as may be convenient.

SEC. 4. No widow shall be entitled to dower in any lands, unless the same were, during the marriage and seizin of the husband, in a state of cultivation, or were used or kept as a wood or timber lot, and occupied with some farm or tenement owned by the husband.

SEC. 5. Every widow having right of dower shall be endowed of so much of any real estate of the husband as will produce a yearly income equal to one third of the yearly income thereof at the time the husband died or parted with his title.

SEC. 6. When the dower of any widow cannot be conveniently and equitably assigned by metes and bounds, she shall be endowed thereof in a special manner as of the third part of the rents and profits thereof, to be estimated as aforesaid.

SEC. 7. No widow shall commit or suffer any waste of the land or real estate of which she is endowed, but shall maintain

the same in good repair during her estate therein, and shall be answerable to the owner of the reversion for any waste done or suffered thereupon; but the consumption of necessary fuel taken therefrom at her residence, when she shall not reside on her dower, shall not be deemed waste.

SEC. 8. The widow of every person deceased testate, leaving no lineal descendant, shall be entitled in addition to her dower to one third part of all the estate remaining after the payment of the debts and expenses of administration, if no provision is made for her by the will of the deceased, or if she shall waive such provision.

SEC. 9. If the deceased is intestate and leaves no such lineal descendant, the widow shall be entitled to one half of all the estate remaining after the payment of the debts and expenses of administration, in addition to her dower.

SEC. 10. If the widow, in either of the cases aforesaid, shall so elect, she shall be entitled, including her dower, to an amount of the estate remaining after payment of debts and expenses of administration, not exceeding that which the husband received from her or in her right during coverture.

SEC. 11. If a settlement shall be made upon the wife before marriage, the provisions of the three preceding sections shall not be in force in such case.

SEC. 12. The widow of any person deceased intestate, leaving lineal descendants, shall be entitled, in addition to her dower, to one third part of the personal estate after the payment of the debts and expenses of administration.

SEC. 13. The widow of any testator deceased, leaving lineal descendants, if there is no settlement nor any provision made for her in his will, or if she shall waive such provision, shall be entitled, in addition to her dower, to a portion of the personal estate equal to that which a child would receive if such estate were equally shared between the widow and the children then surviving or leaving issue, and not exceeding in any case one third of such estate.

SEC. 14. In such case the widow, if she shall so elect, shall be entitled to one third of the personal estate not disposed of by the will.

CHAPTER 176.

OF DESCENT, DISTRIBUTION AND ADVANCEMENTS.

COMPILED FROM
Chapter 166 of the Revised Statutes.
" 238, Laws of 1845.

SECTION

1. Descent of real estate regulated.
2. Parent, when not entitled.
3. Representation, when not allowed.
4. Heirs of bastards, who are.
5. Distribution of personal estate.
6. State takes, if no heir or devisee.
7. " " " ascertained.
8. Advancements to be allowed.

SECTION

9. Advancements, how settled.
10. " of real estate.
11. " of personal estate.
12. Estate not devised, first applied.
13. Devisees and legatees to contribute.
14. Receipts to be filed in probate office.
15. Remedy for neglect.

SECTION 1. The real estate of every person deceased, not devised, subject to any right of dower or courtesy, and liable to be sold by license from the court of probate in cases provided by law, shall descend in equal shares :

First; to the children of the deceased and the legal representatives of such of them as are dead :

Second; if there be no issue, to the father, if he is living :

Third; if there be no issue nor father, in equal shares to the mother and to the brothers and sisters or their representatives :

Fourth; to the next of kin in equal shares.

SEC. 2. If any person shall die under age and unmarried, his estate derived by descent or devise from his father or mother, shall descend to his brothers and sisters or their legal representatives, if any, to the exclusion of the other parent.

SEC. 3. No representation shall be allowed among collaterals beyond the degree of brothers' and sisters' children.

SEC. 4. The heirs of a bastard in the ascending and collateral lines shall be the mother and her heirs, and bastards and their issue shall be the heirs of the mother. (*Laws of 1845, chap. 238, sec. 1.*)

SEC. 5. When the mother of a bastard has deceased, her real estate shall descend, and her personal estate shall be distributed, by decree of the judge of probate, in equal shares to her legitimate and illegitimate children and their issue. (*Laws of 1845, chap. 238, sec. 2.*)

SEC. 6. The personal estate of any person deceased, not bequeathed, remaining in the hands of the administrator on settlement of his administration account, shall be distributed by decree of the judge :

First; to the widow, the share thereof by law prescribed :

Second; the residue in equal shares to the same persons to whom the real estate, if there were any, would by law descend.

SEC. 7. If there shall be no heir or devisee of any estate, the same shall accrue to the State.

SEC. 8. If no heir or legatee shall be ascertained at the expiration of three years from the original grant of administration, the judge shall order the administrator to pay the balance into the state treasury, where it shall be subject to the claim of the persons entitled thereto, upon application to the legislature.

SEC. 9. If any heir of any person deceased, or any person through whom such heir claims, shall have been advanced by the deceased in his life time, such advancement shall be accounted, according to its value, as part or the whole of the share of such heir.

SEC. 10. Such advancements may be taken into consideration in the division of the real estate, and reported by the dividing committee and decreed upon by the judge; or they may be considered and adjusted by the judge in the decree of distribution of the personal estate.

SEC. 11. No deed of real estate shall be deemed an advancement, unless the same is expressed to be made for love or affection, or unless it be proved to be an advancement by some acknowledgment signed by the party receiving the same.

SEC. 12. No personal property delivered shall be deemed an advancement, unless proved to be such by an acknowledgment in writing signed by the party receiving it, or by some charge or memorandum thereof in writing made by the deceased or by his order, or unless delivered expressly as an advancement, in the presence of two witnesses who were requested to take notice thereof.

SEC. 13. The estate real and personal, not specifically devised or bequeathed, shall be first liable to the payment of the legal charges against the estate and legacies given by the will, and to be applied to make up the share of any child born after the decease of the testator, or of any child or issue of any child omitted or not provided for in the will.

SEC. 14. If the same is not sufficient, the property devised and bequeathed shall be liable therefor, and the judge may settle and adjust by his decree the amount of such liabilities, so that each devisee and legatee may contribute in just proportion thereto; and such liabilities may be taken into consideration and allowed in the division of the real estate, and in granting license for the sale of real estate, and in the decree of distribution of the personal estate, as the case may require.

SEC. 15. Every administrator, upon the payment of any legacy or distributive share of any estate, shall take a lawful receipt and discharge therefor and file the same in the probate office, to be there recorded and preserved, the time of its being so filed being certified upon it by the register.

SEC. 16. Any administrator may be cited by the judge of probate, upon complaint of any surety or the legal representative of such surety, to file such receipt or discharge in the probate office; and if he shall neglect or refuse so to do, he shall forfeit twenty dollars, and the like sum for every thirty days' neglect afterwards, to be recovered by such complainant, unless the judge shall on a hearing certify the reasons of the omission to be sufficient.

CHAPTER 177.

OF THE DIVISION OF REAL ESTATE AMONG HEIRS AND DEVISEES.

IDENTICAL WITH

Chapter 167 of the Revised Statutes.

SECTION

1. Dower and shares of heirs, &c., to be set off, how.
2. Committee to give notice of hearing.
3. Their report final, after due notice.
4. No committee till guardians or agents appointed.

SECTION

5. Real estate, when assigned to one.
6. Order of preference in such case.
7. Part assigned to one, when and how.
8. Division of estates in common mode.
9. Heirs to give bond, in what cases.
10. Reversion of dower may be assigned.

SECTION 1. The judge may cause the dower and share of the widow, and the shares of any or all of the heirs or devisees in the real estate of any person deceased, or any part of it, and in the widow's dower after it shall have reverted, to be divided and assigned to them in severalty, according to their respective interests, in one or more parcels as may be convenient.

SEC. 2. A committee of three or five suitable persons shall be appointed by the judge after due notice, who shall be sworn, and shall give to all parties interested, their guardians, agents or attorneys, reasonable notice when they will proceed to make such division, and shall certify in their report that they have given such notice, and to whom, and the names of the parties who appeared before them.

SEC. 3. The written report of such committee made after due notice and hearing, being accepted by the judge after due notice, shall be final and conclusive upon all parties.

SEC. 4. No committee shall be appointed to make such division until guardians or agents, at the discretion of the judge, have been appointed for all minors and persons interested, who are incapacitated to take care of their estates, and agents appointed by the judge to represent and act for those interested who are out of the State.

SEC. 5. If any real estate cannot, in the opinion of the com-

mittee, be divided among all the heirs or devisees without great prejudice, they shall appraise the same at its just value, giving a general description thereof, and make return of their doings; and if the same shall be approved by the judge, he may assign the whole to one or more of the heirs, they paying to the other heirs or devisees their respective just shares of the appraised value, or giving bonds to the judge, with sufficient sureties, to pay the same with interest at such periods as he shall order.

SEC. 6. In such assignment, the oldest male heir or devisee who will accept it, and if there be none such, the oldest female heir or devisee who will accept it, shall be preferred, and between heirs and devisees of different degrees, the nearest of kin shall be preferred.

SEC. 7. If any part of the real estate shall be of greater value than the share of an heir or devisee, and cannot without great prejudice be divided, the whole of it may be assigned to one of the heirs or devisees, paying such sums of money to the heirs or devisees who shall thereby have less than their share, as the committee shall award, or giving bond to the judge, with sufficient sureties, to pay the same at such periods as he may order.

SEC. 8. If any estate, to be divided or assigned as aforesaid, shall be in common with the estate of any other person, the judge upon due notice to such persons may, in his warrant, authorize the committee to make severance and division between the estates so held in common.

SEC. 9. Every person to whom any estate whatever of a person deceased shall be decreed to be set off, assigned, paid or secured, shall, if required, give bond to the judge of probate, with sufficient sureties, to pay to the administrator, in default of other estate in his hands, his ratable proportion of the just demands with which the estate may be chargeable.

SEC. 10. The reversion of the widow's dower may, if the parties request it, be set off, divided or assigned with the other real estate at its just value, to be estimated by the committee.

CHAPTER 178.

OF TRUSTEES OF ESTATES.

COMPILED FROM

Chapter 168 of the Revised Statutes.

" 732, Laws of 1848.

SECTION

1. Trustees to give bond; their duties.
2. Bond, when not required.

SECTION

3. Trustee refusing to give bond, declines.
4. " may resign, when.

SECTION

5. Judge may appoint trustee, when.
6. Estate vests in such trustee, when.
7. Trustee may be removed, when.
8. Trustee appointed to receive and manage estate.

SECTION

9. Judge may authorize sale of property and control its management.
10. Administrators may be authorized to convey real estate holden in trust by intestate.

SECTION 1. Every trustee to whom any estate real or personal shall be devised in trust for any minor or other person, by the will of any person deceased, shall give bond to the judge of probate, with sufficient sureties, in such sum as the judge may order, conditioned:

First; that the trustee shall make and file in the probate office a true inventory of the real estate, goods, chattels, rights and credits so devised, at such time as the judge shall order:

Secondly; that he will annually render an account to the said judge of the annual income and profit thereof:

Thirdly; that at the expiration of said trust he will adjust and settle his accounts with the judge, and pay and deliver over all balances, money and property, with which he has been intrusted: and,

Fourthly; that he will faithfully execute such trust according to the true intent of the deviser.

SEC. 2. If the testator in his will has directed, or if the parties interested in such trust property, being of age and capable, shall request that no such bond be taken, the trustee shall not be required to give such bond, so long as he shall continue faithfully to execute the trust.

SEC. 3. Any person appointed a trustee as aforesaid, who shall neglect or refuse to give such bond, shall be considered as having declined the acceptance of such trust.

SEC. 4. Any trustee so appointed or appointed by the judge in pursuance of this chapter may, upon request in writing to the judge, be permitted to resign the trust, if the judge shall think it expedient.

SEC. 5. If any trustee appointed in any will, no provision being made therein for perpetuating the trust, shall decline accepting the same, or shall die, or shall resign or be removed, a trustee may be appointed by the judge in his stead, after notice to the persons interested in such trust estate.

SEC. 6. Every trustee so appointed by the judge shall be bound by the provisions in this chapter in the same manner as if he were appointed by such last will, and the estate so given in trust shall vest in such trustee in like manner, to all intents and purposes, as the same vested in the original trustee under such will.

SEC. 7. Any trustee who shall become disqualified for the discharge of the trust by becoming insane or otherwise incapable, or evidently unsuitable for the execution of the trust, or who shall neglect or refuse to comply with the provisions of this chapter, may, after notice to such trustee and other parties interested, be removed by the judge.

SEC. 8. Any trustee appointed by the judge shall demand and receive of the original trustee all such estate as shall have come to his hands by virtue of such trust, and shall manage, pay and deliver over such property or the income thereof, in the same manner and under the same obligations and duties as guardians are now by law obliged to do.

SEC. 9. The judge of probate, on application of any such trustee, or any person interested, may, after notice to all persons interested, authorize and require such trustee to sell any property so holden in trust, and to invest the proceeds of such sale in such manner as will be most for the interest of all persons concerned therein, and such judge may from time to time make such orders and decrees as he may think just and reasonable, in relation to the sale, management, investment and disposition of such trust property, and to the settlement of the account of such trustee.

SEC. 10. When any person deceased shall at the time of his death have holden any real estate in trust for the use of another, and there shall be no dispute as to the trust or title of the deceased therein, the judge of probate for the county in which such real estate is situated, upon application to him for that purpose, notice being given, may grant a license to the executor or administrator of such deceased person to convey such real estate to the person for whose use the same was holden in trust by the deceased, or to such other person as may be designated by said judge. (*Laws of 1848, chap. 732.*)

CHAPTER 179.

OF BONDS TO THE JUDGE AND SUITS THEREON.

IDENTICAL WITH

Chapter 169 of the Revised Statutes.

SECTION

1. Bonds to be made to the judge.
2. New bonds may be required, when.
3. Sureties may be discharged, how.
4. License to sue bond, how given.
5. Names of parties endorsed on writ.
6. Suits on bond, how brought.
7. Judgment, security for all interested.
8. Execution awarded to parties, how.
9. Such parties deemed creditors.

SECTION

10. Order of attachments to control.
11. Others admitted to prosecute, how.
12. Scire facias on judgment, when.
13. Execution awarded thereon.
14. Judgment not a bar against obligor.
15. Nor against any other claimant.
16. Costs, how recorded.
17. No review of such action allowed.

SECTION 1. All bonds hereafter given to a judge of probate, shall be made to "the judge of probate for the county of _____," without naming the incumbent of the office.

SEC. 2. If the sureties or the penalty in any bond given to the judge of probate shall be insufficient, the judge shall require the principal therein to furnish new bonds, with sufficient penalty and sureties, and upon refusal or neglect after due notice and a reasonable time allowed, shall revoke the trust of such principal.

SEC. 3. The judge of probate, on application of any surety, may require new bonds to be filed, and after due notice may, in his discretion, discharge such surety from all further responsibility upon such bond.

SEC. 4. Any person interested in any bond given to a judge of probate, may apply to the judge for an order for the suit thereof, setting forth his claim intended to be recovered in such suit, and the judge after due notice and hearing the parties, may make such order, upon the applicant giving bond, with sufficient sureties, to pay the costs which may be adjudged against him.

SEC. 5. The name and residence of every person at whose request such order is made and suit instituted, shall be endorsed on the writ before the service thereof, with a brief statement of his claim.

SEC. 6. In such suits, the defendants shall be called to answer to "the judge of probate for the county of _____," without mentioning the name of the judge to whom the bond was given, or who fills the office; and no suit on any such bond shall be abated or discontinued by any vacancy or change in the office of judge.

SEC. 7. When it shall appear upon confession, verdict, demurrer or in any other way, that the penalty of such bond is forfeited, judgment shall be rendered against the defendant for such penalty, and such judgment shall be a security for all interested.

SEC. 8. Upon a hearing in chancery on such forfeiture, the court shall examine and ascertain the claims of the parties whose names are endorsed upon the writ; and judgment shall be rendered for such parties respectively, for the amount so ascertained, "that the judge of probate for the county of _____ now have execution for _____, being part of the penalty forfeited, and costs taxed at _____, for the use of A. B. of C.," with such further description as the court may deem expedient.

SEC. 9. The party for whose use such judgment shall be rendered, may sue out execution thereon and shall be taken to be the creditor; and if such execution is levied on real estate, the same shall vest in such party as it would do if he were the nominal as well as real plaintiff in the suit, and the attachment made on the original writ shall enure to his benefit in the same manner.

SEC. 10. If there be more than one party for whose use such executions may be awarded, the order of priority in the attachment shall be as designated in the endorsement on the original writ, and if there be no such designation, in the order in which the names are endorsed.

SEC. 11. During the pendency of such suit, the court, on mo-

tion, may order the name of any person interested to be endorsed on the original writ in manner aforesaid, and he shall thereupon be entitled to the same rights as if his name had been so endorsed before the service of such writ, but subsequent to the other endorsers, upon his giving bond with sureties for the payment of costs.

SEC. 12. After judgment for the penalty of such bond, any person interested, upon giving bond to the judge of probate, with sufficient sureties for the payment of such costs as may be adjudged against him, may sue out a scire facias on such judgment to show cause why execution should not be awarded for his use out of the same.

SEC. 13. On such scire facias the claim of such person shall be examined, and execution therefor awarded in manner aforesaid, and he shall be taken to be the creditor as aforesaid.

SEC. 14. No suit or judgment on such bond shall operate as an abatement or bar to any suit thereon, against any obligor against whom no suit has been commenced or judgment rendered.

SEC. 15. A judgment in favor of the obligors shall in no case operate as a bar to any suit thereon, for the benefit of a different claimant or of the same claimant for a different claim.

SEC. 16. Execution may be awarded for costs adjudged to the defendants in any such suit, against the parties for whose benefit the suit was brought or maintained, or the defendants may have their remedy on the bonds taken in the probate office therefor.

SEC. 17. Neither party shall have a right of review in any suit upon a probate bond.

CHAPTER 180.

OF APPEALS FROM THE COURT OF PROBATE.

IDENTICAL WITH

Chapter 170 of the Revised Statutes.

SECTION

1. Who may appeal from decree.
2. Appeal, how claimed.
3. Bonds to be given to prosecute.
4. Notice of appeal to be given.
5. Costs for appellant, when.
6. Neglect to prosecute, costs on.

SECTION

7. Appeal allowed within 2 years, when.
8. Notice of such petition, given.
9. Appeal, where determined.
10. Costs, how secured and allowed.
11. Trial by jury, in what cases.
12. Time when decision takes effect.

SECTION 1. Any person aggrieved by any decree, order, appointment, grant or denial of any judge of probate, which may conclude his interest and which is not strictly interlocutory, may

appeal therefrom to the superior court of judicature next to be holden in the county.

SEC. 2. Such appeal shall be claimed within sixty days from the time of making such decision and not after, in writing signed by the party appealing or his attorney, setting forth his interest therein and the reasons of his appeal.

SEC. 3. The person appealing shall give bond with sufficient surety to prosecute his appeal with effect, and to pay all such costs as shall be awarded against him by the superior court.

SEC. 4. Notice shall be immediately given of such appeal and of the court at which it will be entered and prosecuted, in some newspaper printed in the county, if such there be, otherwise in some newspaper printed in the State.

SEC. 5. If the decision of the judge of probate is reversed or altered, the superior court shall tax costs for the appellant, otherwise for the appellee, and may issue execution therefor.

SEC. 6. If such appeal shall not be prosecuted, any person interested may file a complaint before the court appealed to, and have the decision appealed from affirmed, and judgment and execution for his costs.

SEC. 7. Any person aggrieved by any such decision of a judge of probate, who was prevented from appealing therefrom within said sixty days through mistake, accident or misfortune, and not from his own neglect, may petition the said superior court, at any time within two years thereafter, to be allowed an appeal, setting forth his interest, his reasons for appealing and the causes of his delay.

SEC. 8. Upon such petition, an order of notice shall be issued, requiring the petition and such order to be published in some newspaper three weeks successively, the last publication thereof to be at least thirty days before the sitting of said superior court to which it is returnable.

SEC. 9. If it shall appear that the petitioner has not unreasonably neglected to appeal, and that injustice has been done by the decision of the judge of probate, such appeal shall be allowed, heard and tried on such petition.

SEC. 10. The court may require the appellant to give security for costs, and costs may be allowed to either party at the discretion of the court.

SEC. 11. On such appeal, if any fact material to the cause shall be disputed, the court may direct an issue proper to try such fact to be formed, and ascertain the same by the verdict of a jury.

SEC. 12. Every decision of a judge of probate, so far as the same shall be affirmed or unaltered by the superior court upon appeal, shall be considered to have been in force from the time the same was made or passed by the judge of probate.

TITLE XX.

OF COURTS AND THEIR OFFICERS.

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- CHAPTER 181.** Of the superior court and court of common pleas.
CHAPTER 182. Of the adjournment of courts.
CHAPTER 183. Of clerks of courts.
CHAPTER 184. Of justices of the peace.
CHAPTER 185. Of police courts.
CHAPTER 186. Of juries.
CHAPTER 187. Of attorneys and counsellors.
CHAPTER 188. Of state reporter.
CHAPTER 189. Of sheriffs and deputy sheriffs.
CHAPTER 190. Of coroners and constables.
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CHAPTER 181.

OF THE SUPERIOR COURT OF JUDICATURE AND COURT OF COMMON PLEAS.*

COMPILED FROM
Chapters 171 and 172 of the Revised Statutes.

Chapter 34,	Laws of 1843.
“ 36,	“ “ 1843.
“ 130,	“ “ 1844.
“ 131,	“ “ 1844.
“ 234,	“ “ 1845.
“ 505,	“ “ 1847.
“ 506,	“ “ 1847.
“ 625,	“ “ 1848.
“ 711,	“ “ 1848.
“ 712,	“ “ 1848.
“ 1092,	“ “ 1851.
“ 1223,	“ “ 1852.
“ 1224,	“ “ 1852.
“ 1280,	“ “ 1852.

* The act of 1851, chap. 1092, altering the organization of the courts, prescribes the constitution of both the superior court and court of common pleas in one section, which is so formed that it would be difficult to compile the laws into two separate chapters in the revised statute. We have, therefore, put them into one chapter, constituting the two courts.

**SUPERIOR COURT OF JUDICATURE AND
COMMON PLEAS, CONSTITUTION OF.**

SECTION

1. Circuit justices appointed; chief justice and others; how appointed in case of vacancy in superior court, and quorum of S. C. J.
2. Court of common pleas shall consist of, &c.; chief justice of superior court to be chief justice of C. C. pleas.
3. C. C. pleas, by whom holden.
4. When new terms are established, courts to take cognizance of proceedings.

SUPERIOR COURT OF JUDICATURE.

5. Jurisdiction in cases at common law.
6. " as to special writs.
7. " to correct errors of other courts.
8. " given by statute.
9. Chancery powers of courts.
10. Powers in case of injunctions.
11. Issues of fact, how determined.
12. Rules of practice adopted.
13. One justice to have the power of the court when two are disqualified.
14. Superior court held at Concord; terms of, when, &c.
15. Clerks to attend to the business of their own county; compensation of.
16. All causes, actions, &c., now pending to be heard, &c.
17. Court to fix a day when each county shall be heard; party excepting to furnish copies, &c.
18. Superior court may order clerk of C. C. P. to enter up judgment as of preceding term.
19. When execution returned unsatisfied, proceedings, &c.
20. Court may compel discovery.

COURT OF COMMON PLEAS.

SECTION

21. Jurisdiction original in civil cases.
22. " in criminal cases.
23. " of appeal and highways.
24. " to try issues of fact.
25. Bills of exceptions.
26. Transfer of questions of law.
27. Decision thereof, how certified.
28. Disqualification of judges.

**COMMISSIONERS MAY BE APPOINTED IN
CIVIL ACTIONS.**

29. Court, on motion of either party, may refer any civil action to one or more commissioners; if action commenced before the passage of this act, not to be referred unless by consent of both parties.
30. Each party to prepare and file a statement of the facts which constitute his case; commissioners, at discretion, to allow amendments to be made on terms.
31. Duties of commissioners.
32. Commissioners to have power to examine either party as witness in chief if the other party desires it; upon request of either party, the other party may be examined at trial before jury.
33. The court, on the facts reported, to render judgment unless either party elect to try the case by jury.
34. Such party required to furnish statement, &c.
35. How the verdict shall be.
36. Judgment in such case to be conclusive, &c.
37. To proceed *ex parte* if either party neglect to appear on due notice.
38. Terms of court of common pleas.

SECTION 1. There shall be appointed and commissioned, as prescribed by the constitution, four circuit justices of the court of common pleas; *provided, however*, that until a vacancy shall happen in the superior court of judicature as now constituted, but two of said circuit justices shall be appointed; and whenever such vacancy shall occur in said superior court, an additional circuit justice shall be appointed for each vacancy so happening until the said four circuit justices shall have been appointed; and no

appointment shall be made to fill the first two vacancies that may occur in said superior court after this act shall take effect; but upon the happening of either of said vacancies the said superior court shall consist of the remaining justices thereof; and if by the happening of either of said vacancies the office of chief justice of said superior court shall be vacated, the governor with advice of council shall appoint one of the remaining justices of said court to be chief justice thereof. And after said two vacancies shall have occurred, the said superior court shall consist of a chief justice and two associate justices, any two of whom shall be a quorum to hear and determine cases. (*Laws of 1851, chap. 1092, sec. 1.*)

SEC. 2. The court of common pleas shall consist of the justices of the superior court, such circuit justices as may be appointed agreeably to the provisions of this act, and the judges of the court of common pleas appointed for each county. The chief justice of the superior court shall be chief justice of the court of common pleas, and the chief or senior justice of the superior court present at any term of the court of common pleas shall preside, and if no justice of the superior court be present, the senior circuit justice present shall preside. (*Laws of 1851, chap. 1092, sec. 2.*)

SEC. 3. The terms of the court of common pleas shall be holden by one or more justices of the superior court, or one or more circuit justices and one or both of the judges of the court of common pleas for the county; but if the justice of the superior court or the circuit justice presiding, shall be disqualified or decline sitting in any case, and no other justice of the superior court or circuit justice be present, the county judges shall be a quorum for all purposes. But at the trial of any person charged with a crime, the punishment of which may be death, two of the justices of the superior court, or two of the circuit justices, or one of the justices of the superior court and one of said circuit justices shall be present. And the clerk of the court where such indictment may be found, and every justice of the peace who shall hold any person to answer for such crime, shall forthwith certify the fact to the justices of the superior court. (*R. S., chap. 172, sec. 2, and laws of 1851, chap. 1092, sec. 3.*)

SEC. 4. Where there may be or has heretofore been any new terms established for holding any of the courts in this State, the said courts shall take cognizance and jurisdiction at said new terms of all proceedings of every nature pending in or returnable to said courts, and if said courts have at such terms exercised jurisdiction thereof, they shall retain and continue the same; notwithstanding the statute establishing said new terms may contain no special provision for the transfer of such proceedings. (*Laws of 1843, chap. 36.*)

SUPERIOR COURT OF JUDICATURE.

SEC. 5. The superior court of judicature shall have jurisdiction of all pleas real, personal and mixed, and of all civil actions and criminal proceedings commenced according to the course of the common law, which may be legally brought before them. (*R. S., chap. 171, sec. 2.*)

SEC. 6. The said court shall have exclusive authority to issue writs of error, certiorari, mandamus, prohibition and quo warranto, and may issue writs of habeas corpus and all other writs and processes to courts of inferior jurisdiction, to corporations and individuals, for the furtherance of justice and the due administration of the laws. (*R. S., chap. 171, sec. 3.*)

SEC. 7. The said court shall have the general superintendence of all courts of inferior jurisdiction for the prevention and correction of errors and abuses, where the laws have not expressly provided a remedy. (*R. S., chap. 171, sec. 4.*)

SEC. 8. The said court shall have jurisdiction of all questions of divorce and alimony, and all appeals from courts of probate and applications therefor, all applications for review or new trial founded on any statute, petitions for the redemption and foreclosure of mortgages, petitions for partition of real estate, of proceedings relating to the forfeiture of any estate or franchise granted by the State, and of all actions and questions whatever which shall be transferred from the courts of common pleas for decision according to law. (*R. S., chap. 171, sec. 5.*)

SEC. 9. The said court shall have power to hear and determine as a court of equity in cases of grants, devises and appointments of any real or personal property for any charitable use, in all cases of trust, fraud, accidents or mistakes, in cases respecting the adjustment of the concerns of copartners, joint tenants and tenants in common, in cases respecting the redemption and foreclosure of mortgages, in cases respecting the assignment of dower where the probate court has not jurisdiction, in cases respecting the secreting and withholding any personal property where there is not a plain, adequate and sufficient remedy at common law, in suits to compel the specific performance of contracts, and in suits for discovery in cases where a discovery may be lawfully required. (*R. S., chap. 171, sec. 6.*)

SEC. 10. The said court may grant writs of injunction whenever the same shall be necessary to prevent injustice, and any justice of said court may issue writs of injunction to stay proceedings or waste until the end of the next term of said court in any county, unless sooner dissolved. (*R. S., chap. 171, sec. 7.*)

SEC. 11. No jurors shall be summoned at the superior court; but if it shall be found necessary in any case to ascertain any facts by a jury, an issue shall be made up under the direction of said court, and transmitted to the court of common pleas for trial, and the verdict of the jury thereon shall be certified to said superior

court, and judgment rendered thereon as the case may require. (*R. S., chap. 171, sec. 8.*)

SEC. 12. The justices of the superior court shall make from time to time all necessary rules and orders for conducting the business in said court and in the court of common pleas. (*R. S., chap. 171, sec. 9.*)

SEC. 13. If two of the justices of said court shall be legally disqualified to act as such in any case, the other justice shall hear and determine such case, and shall have all the powers of the court. (*R. S., chap. 171, sec. 10.*)

SEC. 14. *There shall be held annually at Concord, in the county of Merrimack, two terms of said superior court; one on the second Tuesday of July, and the other on the second Tuesday of December; and the said court, sitting at said terms hereby established, shall have jurisdiction and take cognizance of all matters arising in any county, in the same manner as if said matters had arisen in the county where the said terms are holden. (*Laws of 1851, chap. 1092, sec. 4.*)

SEC. 15. The clerk of the superior court in each county shall attend at each term of said court hereby established, and under the direction of the court discharge his duties in relation to the business of his own county, in the same manner as if the court were sitting therein; and said clerks shall receive from the state treasury one dollar and fifty cents per day for their attendance and ten cents per mile for their travel to and from the place of the sitting of said court. (*Laws of 1851, chap. 1092, sec. 5.*)

SEC. 16. All causes, actions, matters and business pending in or returnable to said superior court in any judicial district, at the time this act takes effect, [Sept. 15, 1851,] shall be entered, returned, have day and be heard in said court at the terms thereof hereby established, in the same manner as if said causes, actions, matters and business had been commenced and originated after this act shall take effect. (*Laws of 1851, chap. 1092, sec. 6.*)

SEC. 17. It shall be the duty of said court to determine and fix upon the time when the business of each county shall be heard and determined, at which time the party excepting shall furnish to the court copies of the case and papers referred to, sufficient for the judges then present, and each party who desires to be heard before said court shall then furnish to each judge and to one of the opposing counsel a brief of the points and authorities upon which they may rely. (*Laws of 1851, chap. 1092, sec. 7.*)

SEC. 18. In all cases in which questions have been or hereafter shall be reserved and assigned to the superior court, agreeably to the provisions of the eighth section of chapter one hundred and seventy-two of the revised statutes, [the twenty-sixth section of this chapter,] the superior court, in addition to the powers now

* The first clause of this section is a repealing clause, merely abolishing the old terms of the superior court, and we have therefore left it out.

vested in them, may, if they see fit, order the clerk of the court of common pleas to enter up judgment as of the term of said court of common pleas next preceding the term of said superior court wherein such order is made, and to issue execution accordingly; and in case such judgment shall be for the plaintiff, any property attached on his writ shall be holden until the expiration of thirty days from the actual time of the issuing of the execution, agreeably to said order. (*Laws of 1843, chap. 34, sec. 16.*)

SEC. 19. Whenever an execution against the property of a defendant shall have been issued on a judgment at law, and shall have been returned unsatisfied in whole or in part, the party suing out such execution may file a bill in the superior court of judicature against such defendant, and any other person, to compel the discovery of any property or thing in action belonging to the defendant, or any property, money or thing in action due to him, or held in trust for him; and to prevent the transfer of any such property, money or thing in action, or the payment or delivery thereof to the defendant, except when such trust has been created by, or the fund so held in trust has proceeded from, some person other than the defendant himself. (*Laws of 1845, chap. 234, sec. 1.*)

SEC. 20. The court shall have power to compel such discovery and to prevent such transfer, payment or delivery, and to decree satisfaction of the sum remaining due on such judgment, out of any money, property or things in action belonging to the defendant, or held in trust for him, with the exception above stated, and of property specially exempted from attachment and execution, which shall be discovered by the proceedings in chancery, whether the same were originally liable to be taken in execution at law or not. (*Laws of 1845, chap. 234, sec. 2.*)

COURT OF COMMON PLEAS.

SEC. 21. The court of common pleas shall have original jurisdiction of all civil actions in which the proceedings shall be according to the course of the common law, except in cases where justices of the peace have jurisdiction, and where the proceedings must be commenced by writs of which the superior court has exclusive jurisdiction, and in all other cases provided by law. (*R. S., chap. 172, sec. 3.*)

SEC. 22. The said court shall have original jurisdiction in all criminal cases whatever, except such as are within the jurisdiction of justices of the peace. (*R. S., chap. 172, sec. 4.*)

SEC. 23. The said court shall have jurisdiction of all appeals from justices of the peace in civil and criminal cases, and of all petitions for the laying out and discontinuing of highways in cases provided by law. (*R. S., chap. 172, sec. 5.*)

SEC. 24. The court of common pleas shall have authority to try all issues of fact which shall be transmitted to them for trial from the superior court, and to make all proper orders relating thereto in their discretion. (*R. S., chap. 172, sec. 6.*)

SEC. 25. Any person aggrieved by any opinion, direction or judgment of said court of common pleas in any action or proceeding, may allege exceptions thereto at the same term, which shall be reduced to writing before the adjournment of the court without day, and being conformable to the truth of the case, shall be signed by the presiding justice and be a part of the record in such case. (*R. S., chap. 172, sec. 7.*)

SEC. 26. The question arising upon such exceptions or upon a special verdict, and any issue of law, motion for a new trial, or statement of facts agreed upon and signed by the parties in any case, may be reserved and assigned by the presiding justice, if he think fit, to the determination of the superior court, and such justice shall direct such documents and papers as he thinks necessary, to be transmitted to said court. (*R. S., chap. 172, sec. 8.*)

SEC. 27. The decision of said superior court in any of the cases aforesaid, shall be certified by the clerk thereof to the clerk of the court of common pleas in which the action is pending, and such judgment shall be entered or disposition of the action made as is directed therein. (*R. S., chap. 172, sec. 9.*)

SEC. 28. No judge shall sit on the trial of any cause upon appeal which he has before tried in the court below, nor in any cause in which he has been concerned as a party or attorney. (*R. S., chap. 172, sec. 10.*)

COMMISSIONERS MAY BE APPOINTED IN CIVIL ACTIONS.

SEC. 29. The court of common pleas, on motion of either party, may, if they think proper, refer any civil action pending therein, to one or more commissioners to be appointed by said court, who shall, before entering upon their duties, be sworn to the faithful discharge of the same; *provided, however*, that no action which was commenced before the passage of this act shall be so referred, unless by the consent of the parties. (*Laws of 1852, chap. 1210, sec. 1.*)

SEC. 30. When any action is so referred, each party shall prepare and file, under the direction of the court, a statement, expressed with legal certainty, of the facts which constitute his case, and the court or such commissioner or commissioners may, at their discretion, permit either of the parties to add to, alter or amend such written statement upon such terms as shall be reasonable and just, at any time during the pendency of such suit.

SEC. 31. It shall be the duty of such commissioner or commissioners to try the questions of fact so raised, and report to the court such facts as they judge to be proved; and shall also, upon request in writing of either party, report to the court the evidence given before them, that either party may, if he desire, use the same in the same way as depositions are used, on the trial of the action by the jury.

SEC. 32. Such commissioner or commissioners shall have

power, upon the request of either party, to examine the other party as a witness in chief. And it is further provided that, upon the request of either party, the other party may be examined as a witness in chief at any trial by jury.

SEC. 33. On such report, the court shall render such judgment as is warranted by the facts reported, unless either of the parties shall, at the term at which the report is made, elect to try the case before a jury.

SEC. 34. Such party shall furnish a statement in writing, of the particulars in which he expects to change the result of the report, and at the trial the report shall be *prima facie* evidence of the facts.

SEC. 35. The verdict shall be specifically on the facts put in issue by the statement above mentioned, and the court shall render such judgment thereon as is warranted by the facts found.

SEC. 36. The judgment so rendered, either with or without a trial by jury, shall be as conclusive between the parties as a verdict on a matter directly in issue and a judgment thereon are now by law.

SEC. 37. If either party, on due notice, shall neglect to appear before the commissioner or commissioners, they shall proceed *ex parte*. (*Laws of 1852, chap. 1280, sec. 9.*)

SESSIONS OF COURT OF COMMON PLEAS.

SEC. 38. The court of common pleas shall be holden annually at the times and places following:

At Portsmouth, on the third Tuesday of September, and at Exeter, on the second Tuesday of February, for the county of Rockingham: (*Laws of 1847, chap. 506.*)

At Dover, on the third Tuesday of January and on the third Tuesday of August, for the county of Strafford: (*Laws of 1848, chap. 712.*)

At Gilford, on the fourth Tuesday of February and on the first Tuesday of September, for the county of Belknap: (*Laws of 1847, chap. 506.*)

At Ossipee, on the fourth Tuesday of April and on the third Tuesday of October, for the county of Carroll: (*Laws of 1852, chap. 1223.*)

At Concord, on the fourth Tuesday of March and on the second Tuesday of October, for the county of Merrimack: (*Laws of 1844, chap. 130.*)

At Amherst, on the third Tuesday of April, and at Manchester, on the fourth Tuesday of October, for the county of Hillsborough; *provided, however*, that so much of this section as provides that a term of the court of common pleas shall be holden at Manchester, shall not take effect till said town of Manchester shall provide suitable rooms for the accommodation of said court, free of expense to the county, and the selectmen duly notify the clerk of the

said court of the same; but the said court shall be holden at Amherst on the fourth Tuesday of October, until such rooms are provided. (*Laws of 1844, chap. 130.*)

At Keene, on the third Tuesday of March and the second Tuesday of September, for the county of Cheshire: (*Laws of 1844, chap. 130.*)

At Newport, on the first Tuesday of February and on the third Tuesday of August, for the county of Sullivan: (*Laws of 1847, chap. 506.*)

At Haverhill, on the second Tuesday of April and on the first Tuesday of October, for the western judicial district of the county of Grafton: (*Laws of 1847, chap. 506.*)

At Plymouth, on the second Tuesday of May and the second Tuesday of November, for the eastern judicial district for the county of Grafton: (*Laws of 1844, chap. 130, and laws of 1852, chap. 1224.*)

At Lancaster, on the first Tuesday of May and on the first Tuesday of November, for the county of Coös. (*Laws of 1844, chap. 130.*)

CHAPTER 182.

OF THE ADJOURNMENT OF COURTS.

COMPILED FROM

Chapter 173 of the Revised Statutes.

" 969, Laws of 1850.

SECTION

1. Power to adjourn.
2. Any justice may adjourn.
3. Sheriff may adjourn.

SECTION

4. Changes of terms.
5. Changes of place of holding court.
6. Notice to be given.

SECTION 1. The superior court of judicature and court of common pleas may adjourn their sittings from time to time, as they may think proper.

SEC. 2. If the number of justices required to hold any term of the court shall not attend, any of the justices present may open and adjourn the court from day to day or to any future day or to the next term of the court.

SEC. 3. If none of the justices of the court shall attend at any term, the sheriff may adjourn the court from day to day until one of the justices shall attend.

SEC. 4. When the time or place of holding any court shall be changed by law, all writs, actions, processes, venires and every matter and thing whatever which may be returnable at or contin-

ued to such term, shall be returned to, entered, have day and be heard at the times and places fixed by law as aforesaid.

SEC. 5. Whenever any cause shall exist which in the judgment of any court in this State shall render it dangerous, inconvenient or inexpedient to hold any term of said court at the place where by law such term should be holden, the judge or justices of said court may adjourn the same to some other town or place within the same county, and there complete the business of such term in the same manner as if the same had not been adjourned: *provided, however*; that no adjournment shall extend beyond one term of said court. (*Laws of 1850, chap. 969, sec. 1.*)

SEC. 6. Suitable notice of such adjournment shall be given in such manner as the court may order. (*Laws of 1850, chap. 969, sec. 2.*)

CHAPTER 183.

OF THE CLERKS OF COURTS.

" IDENTICAL WITH

Chapter 174 of the Revised Statutes.

SECTION

1. Clerk for each county, and to give bonds.
2. Clerk not to be register of deeds or county treasurer.
3. Clerk to account at each term.

SECTION

4. Clerk to furnish to sheriff list of fines.
5. Clerk to certify copies of records, &c., in his office.
6. Clerk's office, where to be kept.
7. Copies agreed on as such, may be used.

SECTION 1. There shall be a clerk of the superior court and a clerk of the court of common pleas in each county, each of whom shall, before he enters upon the duties of his office, give bond to the county in the penal sum of five thousand dollars, with two or more sufficient sureties, to be approved by one of the justices of the court of which he is clerk, conditioned for the faithful discharge of the duties of his office, the payment of all moneys by him received as clerk, to the State, county or individuals as the law directs, and for the safe keeping and delivery of all records, files and papers belonging to his said office, immediately upon his leaving the same.

SEC. 2. No clerk of any court shall be at the same time register of deeds or county treasurer.

SEC. 3. Every such clerk shall immediately after each term of the court, account with and pay over to the county treasurer all money by him received for the use of the county, and the presiding judge shall certify the account of the clerk at the close of the term.

SEC. 4. Every clerk of said courts shall, at the close of each court, or earlier, make and deliver to the sheriffs, proper writs, warrants and processes for the collection of all fines and forfeitures imposed by said court, and shall make and transmit to the treasurer of the county a list of the same; and if any clerk shall neglect his duty herein, he shall forfeit the sum of twenty dollars to any person who will sue for the same.

SEC. 5. The records and files of the several courts of sessions and courts of common pleas heretofore established by law, and all records and files of justices of the peace deceased or removed from their counties, shall be deposited in the office of the clerk of the court of common pleas, who shall give attested copies thereof, and shall be for that purpose the proper certifying officer.

SEC. 6. The clerks of the superior court and court of common pleas shall keep their offices and the records of said courts in one of the towns in which such courts are holden, and if any suitable office is provided by the county, such records shall be there kept.

SEC. 7. In all cases where it shall become necessary in any judicial proceedings to use or file a copy of any writ, pleading, case or other writing or document, a copy thereof agreed on or certified as such by the contending parties in such proceeding, or by their counsel or attorneys, may be received, used or filed, and shall, as between said parties and all persons claiming under them, be as effectual for all purposes as a copy thereof made or certified by any clerk or other certifying officer.

CHAPTER 184.

OF JUSTICES OF THE PEACE.

IDENTICAL WITH

Chapter 175 of the Revised Statutes.

SECTION

1. Jurisdiction of justices.
2. No evidence of title under general issue allowed to be introduced.
3. Proceedings on plea of title.
4. Action to be entered at court of common pleas.
5. On neglect, costs to be awarded.
6. Appeal may be taken.
7. Appeal, when and how granted.
8. Copies to be filed on appeal.
9. On neglect to enter appeal, costs.
10. Case to be tried in court.

SECTION

11. Costs on appeal for defendant, when.
12. Adjournment of trial.
13. If justice absent, another may act.
14. Justice not to act as attorney.
15. Justices to keep records.
16. Executors and others to deposit records in the clerk's office.
17. Justice removing, to deposit records.
18. Justice to issue execution after his commission expires.
19. Justices out of commission to give copy.

SECTION 1. Every justice of the peace within his county may hear, try and determine all pleas and actions in which the title to real estate shall not be drawn in question, when the damages demanded do not exceed thirteen dollars and thirty-three cents.

SEC. 2. When any action of trespass shall be brought before a justice and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title to real estate in question.

SEC. 3. If, in any such action, the defendant shall plead any special plea by which the title to real estate may be drawn in question, the justice shall record such plea, and no further proceedings shall be had in such action before him, except that the plaintiff, if he so choose, may become nonsuit.

SEC. 4. In case such special plea shall be filed, the plaintiff may enter his action in the next court of common pleas, and file there attested copies of the writ, plea and all other papers used in said cause, and there prosecute the same as in actions originally commenced in said court.

SEC. 5. If such plaintiff shall not enter his action in the court of common pleas, the said court, upon complaint of the defendant, shall allow him his costs both before the justice and at said court.

SEC. 6. Either party aggrieved by the judgment given by any justice in any civil cause, may appeal therefrom to the next court of common pleas to be holden in the same county.

SEC. 7. Every appeal shall be claimed within two hours after the judgment is rendered, and shall not be granted unless the party appealing shall enter into recognizance to the adverse party, with sufficient sureties, in the sum of twenty dollars, to pay the costs which may be recovered against him.

SEC. 8. The party claiming an appeal shall produce at the court to which the appeal is claimed, attested copies of the writ, pleadings, judgment, and all other papers used and filed in the cause in the court below.

SEC. 9. If any appellant shall fail to enter his appeal, or to produce such copies or to pay the jury fees, the former judgment shall be affirmed and costs taxed for the appellee.

SEC. 10. If the court shall reverse the judgment of a justice that any writ be abated, the case shall not be remanded, but shall be heard and determined in said court.

SEC. 11. If the plaintiff appeal in any action founded on contract, and shall not recover damages to a greater amount than were awarded by the justice, the defendant shall recover his costs on such appeal.

SEC. 12. Every justice may adjourn the trial of any civil cause before him to such future time as may be proper, not exceeding three months.

SEC. 13. If such justice shall fail to attend at the time and place to which any process is returnable or continued before him, any other justice may attend and continue the same, not exceeding

thirty days, without cost to either party and saving the rights of all parties.

SEC. 14. No justice shall be of counsel or act as an attorney to either party, nor advise nor assist any party in any case before him.

SEC. 15. Every justice shall keep a fair record in one or more books, to be kept for that purpose, of all proceedings, civil or criminal, before him.

SEC. 16. The executor or administrator of every deceased justice, and every other person into whose hands the records and official files of such justice shall come, shall forthwith deposit the same in the office of the clerk of the court of common pleas, where they shall be kept; and if any such person shall neglect to deposit the same as aforesaid for six months, he shall for each month's neglect afterwards, forfeit and pay to any person who will sue for the same, the sum of five dollars.

SEC. 17. When any justice in commission shall remove from his county, he shall deposit his records and files with the clerk as aforesaid; and if he shall neglect so to do, he shall forfeit for every month's neglect after such removal, the sum of five dollars to any person who will sue for the same.

SEC. 18. Any justice may issue execution on any judgment recovered before him during his term of office under any former commission, in the same manner as if his commission had not expired.

SEC. 19. Every person who has sustained the office of a justice of the peace, may give attested copies of any proceedings before him as such justice, and his certificate shall be valid.

CHAPTER 185.

OF POLICE COURTS.

IDENTICAL WITH

Chapter 1282, Laws of 1852.

SECTION

1. Justices, how appointed; police court to take cognizance of all crimes, offences, &c.
2. To hear and determine all suits, complaints and prosecutions, &c.
3. To have original and exclusive jurisdiction in all cases which may now or hereafter be heard by a justice of the peace. Police justice not to be counsel or attorney, when.

SECTION

4. Warrants, how issued and returnable; fees for same, how regulated.
5. Fines and costs to be taxed, paid and certified, how.
6. Court to be held once a month, and as much oftener as necessary; justice to establish rules for said court.
7. Justice to account for and pay over fees, &c. Salary not less than one hundred dollars.

SECTION

8. To keep record, &c. ; to make an account to the selectmen in the month of February.
9. All actions commenced to be heard, the same as if this act had not passed.
10. An associate justice to be appointed ; court shall be held by him, when ; his compensation.

SECTION

11. Officers arresting without warrant to carry the offender before the said justice forthwith ; penalty for neglect or refusal.
12. Directions to towns to avail themselves of the provisions of this act.

SECTION 1. There shall be in each town in this State, in which this act may be in force, a police court, to consist of one able, learned and discreet person, to be appointed and commissioned by the governor, pursuant to the constitution, to take cognizance of all crimes and offences and misdemeanors committed within said town, whereof justices of the peace now have or may hereafter have jurisdiction.

SEC. 2. And the said police court shall hear and determine all suits, complaints and prosecutions in like manner as is by law provided for the exercise of the powers and authority which are or may be vested in justices of the peace, and do all acts necessary to and consistent with such powers and authority.

SEC. 3. And the said police court shall also have original jurisdiction and cognizance of all suits and actions which may now or at any time hereafter be heard, tried and determined before any justice of the peace in the county in which such town may be situated ; and no writ in any suit or action shall be made returnable before any justice within such town, but to said police court only ; and an appeal shall be allowed from all judgments of said police court, in like manner and to the same extent that appeals are allowed by law from judgments of justices of the peace ; and the justice of said police court shall not be of counsel or attorney to any party in any matter or thing whatsoever which may be pending in said court.

SEC. 4. All warrants issued by said court, or by any justice of the peace within such town, shall be made returnable and shall be returned before said court ; and if any warrant shall be issued by any justice of the peace, returnable before said court, the lawful fees payable therefor shall not be paid or allowed unless, on examination or hearing before said court, it shall appear to said court that there was just and reasonable cause for issuing said warrant, in which case such fees, costs and charges shall be allowed and taxed in like manner as though said warrant had been issued by a justice of the peace according to the law now in force.

SEC. 5. All fines and forfeitures, and all costs in criminal prosecutions, which shall be received by or paid into the hands of the justice of said court, shall be by him accounted for and paid over to such town in the same manner and under the same penalties for neglect as are by law prescribed in the case of justices of the peace ; and all costs in such prosecutions not thus received shall

be made up, taxed, certified and allowed, and shall be paid and satisfied in like manner as provided by law in cases of justices of the peace.

SEC. 6. A court shall be held by said justice at some suitable and convenient place, to be provided at the expense of such town, on one day of each month, and at such other times as may be necessary, and may be adjourned from day to day by the justice thereof; and the justice of said court shall from time to time establish all necessary rules for the orderly and uniform conducting of the business thereof.

SEC. 7. The said justice shall account for and pay over to such town all the fees by him received or which now accrue to justices of the peace in civil actions and criminal prosecutions, and such town shall pay annually to said justice of said court the sum of not less than one hundred dollars, to be fixed from time to time by such town, at a meeting thereof duly called for that purpose, in full compensation for all services assigned to him by the provisions of this act.

SEC. 8. The justice of said court shall keep a fair record of all proceedings in said court, and shall make return to the several courts of all legal process and of his doings therein, in the same manner as justices of the peace are now by law required to do, and may hold the office, exercise the powers and perform the duties of clerk of said court; and he shall also annually, in the month of February, render to the selectmen of such town an account, on oath or affirmation of all money by him received as fines, forfeitures, penalties, fees and costs.

SEC. 9. All suits, actions and prosecutions which shall be instituted and pending before any justice of the peace within such town, when this act shall take effect, shall be heard and determined as though this act had not been passed.

SEC. 10. An associate justice of said court shall be appointed by the governor, by and with the advice and consent of the council, and whenever it shall happen that the principal justice of said court shall be interested in any prosecution cognizable in said court, or shall from any cause be unable to hear and determine any matter or thing pending therein, the court shall be holden by such associate justice. And said associate shall account and pay over all moneys received by him in the same manner as is required of the principal justice. And said associate justice shall be paid by such town for all services by him performed, two dollars for each day of actual service.

SEC. 11. Any officer within any town in which this act shall be in force, arresting any offender against the police laws of such town, without warrant, shall forthwith carry said offender before the justice of the police court within such town, or some justice of the peace, that a complaint may be made therefor, (except in the case mentioned in section 5, chapter 114 of the revised statutes,) [chap. 120, section 7 of this compilation,] and any officer

neglecting so to do shall forfeit therefor the sum of fifty dollars, to be recovered by an action of debt, one half to the use of the prosecutor and the other half to the use of such town.

SEC. 12. This act shall be in force in any town which shall, at any legal town meeting called for that purpose, by a majority of the voters present and voting thereon, determine to adopt the same. And it shall be the duty of the town clerk of such town, within thirty days thereafter, to file in the office of the secretary of state an attested copy of such vote of such town, and the same shall be the proper evidence upon which the appointment of police justices as aforesaid may be made.

CHAPTER 186.

OF JURIES.

COMPILED FROM

Chapter 176 of the Revised Statutes.

“ 231, Laws of 1845.

“ 1098, “ “ 1851.

SECTION

1. List of persons qualified for jurors.
2. Number of names on such list.
3. Who are exempt from serving.
4. Names to be put in a box.
5. Jury box to be revised in certain cases.
6. Court to direct number, and from what towns.
7. Clerks to issue venires.
8. Venires delivered to town clerks.
9. Notice of the drawing, how given.
10. How jurors drawn.
11. Others drawn, in what cases.
12. Jurors drawn to be returned and names excluded from the box.
13. Town clerk to make record of drawing.
14. Notice given to the jurors drawn.

SECTION

15. Venire and certificate to be returned.
16. On emergency, jurors drawn forthwith.
17. Penalty for neglect of duty of clerk of court, sheriff or town clerk.
18. Penalty for non-attendance of juror.
19. “ for misconduct of selectmen.
20. “ for misconduct of town clerk.
21. Talesmen to be returned, when.
22. Jurors may be examined as to interest or bias.
23. Oaths of jurors, forms.
24. Selectmen of wards to make a list of persons qualified for jurors, &c.
25. Venires to be issued. Clerks of wards, duties of, &c.

SECTION 1. The selectmen of each town shall annually, in December, make a list of such persons as they shall judge best qualified to serve as jurors; and the list thus annually made by the selectmen, shall be by them kept and delivered over to their successors in office.

SEC. 2. Such list shall not contain the names of more than fifteen persons in towns containing less than one hundred and fifty

ratable polls, twenty-five in all other towns containing less than three hundred, thirty in all other towns containing less than four hundred, thirty-five in all other towns containing less than five hundred, forty in all other towns containing less than twelve hundred, and forty-five in all other towns containing more than twelve hundred ratable polls.

SEC. 3. The governor, secretary and treasurer of the State, judges and clerks of the courts, registers of probate, registers of deeds, sheriffs and their deputies, counsellors and attorneys at law, ordained ministers and practising physicians and surgeons are exempted from serving as jurors, and their names shall not be placed on said lists.

SEC. 4. The names on said lists shall be written upon separate and similar pieces of paper, which shall be so rolled up that the names cannot be seen, and placed in a box to be provided for that purpose by the selectmen, which shall be delivered to the town clerk to be kept by him under lock.

SEC. 5. Whenever, from any cause, the number of names in the jury box of any town shall be reduced below the number of jurors required to be drawn for any court, the selectmen of such town before the day appointed for drawing such jurors, may proceed to revise the jury box of such town in the same way and manner as is now provided to be done in the month of December. (*Laws of 1845, chap. 231, sec. 1.*)

SEC. 6. The courts shall direct the number of jurors to be summoned, and from what towns, in such manner that each town may furnish its due proportion of jurors in each year.

SEC. 7. The clerk of the court of common pleas shall issue writs of *venire facias*, directed to the clerks of such towns as the court may order, forty days before the sitting of such court, requiring each of them to cause to be selected and returned so many jurors as are therein mentioned.

SEC. 8. The clerk shall cause such *venires* to be delivered to such town clerks twenty-five days, or to the sheriff forty days, before the sitting of the court, and the sheriff shall cause all *venires* so delivered to him, to be delivered to the town clerks twenty-five days before the sitting of the court.

SEC. 9. Each town clerk upon the receipt of the *venire*, shall notify the selectmen of the time and place by him appointed for the selection of jurors, and post up a notice thereof in some public place in such town seven days at least before the time so appointed.

SEC. 10. At the time and place so appointed, the town clerk in presence of the selectmen whose duty it shall be to attend, and of such other persons as may choose to attend, shall draw from the box held in such manner that the papers therein cannot be seen, the names of so many persons as are required by the *venire*. In the absence of the town clerk, one of the selectmen shall draw the same.

SEC. 11. If any person whose name is so drawn, has deceased, become insane, has removed from town, or is disabled by sickness, the town clerk shall certify the fact on the venire and draw another name.

SEC. 12. The persons whose names are so drawn, shall be returned to serve as jurors, and their names shall not be again placed in such box for the term of two years.

SEC. 13. The town clerk shall record the notice posted by him as aforesaid, the names of the selectmen present and of the persons drawn as jurors.

SEC. 14. A notice in writing of his selection as a juror, of the court he is to attend and of the day and hour he is to appear, shall be given to each juror or left at his usual place of abode, four days at least before the sitting of the court, by the town clerk or a constable.

SEC. 15. The town clerk shall certify upon the venire the names of the persons so selected as jurors, and that they have been notified as aforesaid, and cause such venire to be returned to the clerk of the court at the hour at which the juror has been notified to attend.

SEC. 16. Upon any emergency jurors may be selected while the court is in session. The venires shall be issued and notice of the time and place of such selection given, and the jurors drawn and notified forthwith; and the jurors so drawn and notified, shall immediately attend the court.

SEC. 17. If any clerk, sheriff or town clerk shall neglect to perform any of the duties enjoined by this chapter, he shall be fined by the court in the sum of twenty dollars.

SEC. 18. If any person selected as a juror and duly notified to attend, shall, without sufficient cause, neglect to attend agreeably to such notice, he shall be fined by the court in a sum not exceeding twenty dollars.

SEC. 19. If any selectman shall wilfully neglect to perform any duty required by this chapter, or shall put upon the list a greater number of names than is allowed by law, or shall put on the list the name of any person at his own request or on the request of any other person, or shall withdraw from the box the name of any person legally put upon the list, or shall be guilty of any fraud or collusion with respect to the drawing of jurors, he shall be punished by a fine of fifty dollars for each offence.

SEC. 20. If any town clerk shall draw from the box a greater number of names than are mentioned in the venire, except in cases provided, or shall put or suffer to be put in said box any name after the same is delivered to him as aforesaid, or shall be guilty of any fraud or collusion in respect to the drawing of jurors, he shall be punished by a fine of fifty dollars.

SEC. 21. The sheriff, coroner or other officer under the direction of the court, may return jurors of the persons present; but the number of persons so returned to serve upon the grand jury, shall not exceed five.

SEC. 22. Any juror may be required by the court on motion of any party in the cause to be tried, to answer upon oath whether he expects to gain or lose by the issue of the cause then pending; whether he is related to either party; whether he has advised or assisted either party; or directly or indirectly given his opinion or has formed any opinion; or is sensible of any prejudice in the cause; and if it appears that any juror does not stand indifferent in any cause, he shall be set aside on that trial.

SEC. 23. The oaths to be administered to jurors shall be in the following forms:

GRAND JUROR'S OATH.

"You as grand jurors for the body of this county, do solemnly swear that you will diligently inquire, and a true presentment make of all such matters and things as shall be given you in charge; the State's counsel, your fellows' and your own you shall keep secret; you shall present no man for envy, hatred or malice; neither shall you leave any unrepresented for love, fear, favor, affection or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God."

PETIT JUROR'S OATH IN CRIMINAL CASES.

"You solemnly swear that you will well and truly try, and true deliverance make between the State of New Hampshire and the prisoner at the bar, whom you shall have in charge, according to law and the evidence given you. So help you God."

PETIT JUROR'S OATH IN CIVIL CASES.

"You swear that in all causes betwixt party and party, that shall be committed unto you, you will give a true verdict, according to law and the evidence given you. So help you God."

SEC. 24. The selectmen of the several towns or wards of the cities in this State shall make and keep a list of persons within their ward or town, qualified to serve as jurors, and shall perform all other such duties as the selectmen of other towns in the State are required to perform in relation to the selection of jurors. (*Laws of 1851, chap. 1098, sec. 1.*)

SEC. 25. The clerk of the court of common pleas shall issue writs of venire facias to the clerks of such town or wards, in the same manner as he is by law required to issue such writs to clerks of other towns. And the clerk of such town or ward shall perform all the duties in relation to the selection and return of jurors which clerks of other towns are by law required to perform. And all laws applicable to towns and town officers in relation to jurors shall be taken to apply to the towns or wards which compose the cities in this State. (*Laws of 1851, chap. 1098, sec. 2.*)

CHAPTER 187.

OF ATTORNEYS AND COUNSELLORS.

IDENTICAL WITH

Chapter 177 of the Revised Statutes.

SECTION

1. Parties may appear in person or by any citizen of good character.
2. Any citizen may be admitted attorney.
3. Attorneys of other states admitted.
4. Attorneys of superior court may practise in any court.

SECTION

5. Attorneys to take oath, and form.
6. No one to practise unless admitted.
7. Attorneys may be removed.
8. Disqualification of attorneys.

SECTION 1. Every party in any cause, prosecution or suit may appear, plead, pursue or defend in his proper person, or by any citizen of good character.

SEC. 2. Any citizen of the age of twenty-one years, of good moral character, on application to the superior court, shall be admitted to practise as an attorney.

SEC. 3. Any person who shall have been admitted an attorney or counsellor of the highest judicial court of any other state of which he was an inhabitant, shall be admitted to practise as an attorney, upon satisfactory evidence of his good character.

SEC. 4. Every attorney admitted as aforesaid shall be qualified to practise as any attorney in any court of this State, upon filing a copy of the record of his admission with the clerk.

SEC. 5. Every attorney admitted as aforesaid, shall take and subscribe in open court the oaths to support the constitution of the United States and of this State, and the oath of office in the following form :

“ You solemnly swear that you will do no falsehood, nor consent that any be done in the court, and if you know of any, that you will give knowledge thereof to the justices of the court or some of them, that it may be reformed ; that you will not wittingly or willingly promote, sue or procure to be sued any false or unlawful suit, nor consent to the same ; that you shall delay no man for lucre or malice, but shall act in the office of an attorney within the court, according to the best of your learning and discretion, and with all good fidelity as well to the court as your client. So help you God.”

SEC. 6. No person shall be permitted commonly to practise as an attorney in court, unless he has been admitted by the court and taken the oath aforesaid.

SEC. 7. If an attorney shall be charged with any fraud or malpractice, or any contempt of court, the court shall inquire into

such offence in a summary manner, and if found guilty, he shall be suspended or removed from office.

SEC. 8. No person shall be admitted to prosecute or defend, as an attorney, any cause in which he has acted as judge.

CHAPTER 188.

OF STATE REPORTER.

IDENTICAL WITH
Chapter 961, Laws of 1850.

SECTION

1. State Reporter.
2. " " to be appointed.
3. " " to be sworn.
4. Justices of superior court to prepare report.

SECTION

5. Compensation of justices for copy furnished.
6. Duty of State Reporter.
7. Salary.

SECTION 1. The office of state reporter is hereby created, the incumbent thereof to be known as the state reporter.

SEC. 2. The governor, with the advice and consent of the council, shall, immediately after the passage of this act, and as often thereafter as a vacancy shall happen in the said office, appoint some suitable person to act as reporter of the decisions of the superior court of judicature of this State, who shall be removable at their pleasure.

SEC. 3. Before entering upon the duties of his office, he shall be sworn before the said court, or any justice thereof, to the faithful discharge of the duties of his office.

SEC. 4. It shall be the duty of each justice of the superior court to prepare for the press correct reports of all the cases in which the judgment of the court shall be hereafter pronounced by him, within six months from the time when such case shall be decided; and it shall be the duty of said justices to report the several cases more or less at length, according to their importance, so as not unnecessarily to increase the number or size of the volumes.

SEC. 5. Said justices shall receive from the State for such reports seasonably furnished, one dollar and fifty cents for every page of copy, containing the same amount of matter as one printed page of the thirteenth volume of the New Hampshire Reports.

SEC. 6. It shall be the duty of the State reporter to edit the reports so furnished as early as practicable, and to provide for the sale of the reports so published, either by selling the copy-right, or by such other mode as he may deem expedient, and to pay into

the treasury of the State the net proceeds of such sales, after deducting all reasonable and necessary expenses of publishing and selling: *provided, however*, that the price of said reports, which are to be printed and bound like the thirteenth volume of the New Hampshire Reports, shall not exceed three dollars and fifty cents per volume.

SEC. 7. The salary of such reporter shall be four hundred dollars a year.

CHAPTER 189.

OF SHERIFFS AND DEPUTY SHERIFFS.

COMPILED FROM

Chapter 178 of the Revised Statutes.

" 140, Laws of 1844.

" 232, " " 1845.

SECTION

1. Sheriff to give bond.
2. " not qualified till given.
3. Sheriff's bond annually examined.
4. New bonds to be given, or sheriff removed.
5. Deputy sheriffs, how appointed and qualified.
6. Special deputies, how appointed.
7. Deputies, how discharged.
8. Sheriff responsible for deputies.
9. " and deputies to serve writs, &c., and act as crier.
10. Penalty for neglect to serve precept.
11. " for neglect to pay money collected.
12. Sheriff and deputies may require aid.
13. " out of office may complete business commenced.
14. Deputies to act in case of vacancy.
15. " not to receive business, after what time.
16. Defaults during vacancy, breach of bond.
17. Execution against sheriff not against body.

SECTION

18. If unsatisfied, sheriff removed.
19. Sheriff's bond, when sued.
20. " " copy evidence, when.
21. " " breaches assigned.
22. " " judgment for plaintiff, how recovered.
23. " " endorser liable for defendant's costs.
24. Sheriff accountable for fines.
25. Penalty for neglects.
26. Account against county, how adjusted.
27. Sheriff and deputies not to act as attorneys.
28. Deputies to render account of fees to sheriff.
29. Sheriff to account for fees to county treasurer.
30. Sheriff to pay over balance above salary.
31. Sheriff to retain fees for services made by himself.
32. Sheriff not disqualified to serve process by reason of being corporator.
33. When sheriff refuses to pay over money, to be liable.

SECTION 1. Every sheriff hereafter appointed, shall give a bond to the county in the sum of thirty thousand dollars, with

sufficient sureties to be approved by the justices of the court of common pleas, for the faithful performance of the duties of his office, and to answer for all neglect and misdoings of his deputies, and such bond shall be deposited in the office of the clerk of said court.

SEC. 2. No sheriff shall be deemed qualified to perform any duty of his office, until he shall have given security as aforesaid.

SEC. 3. The justices of the court of common pleas shall annually, at the term of said court next after the first day of August, consider the sufficiency of the sheriff's bond and of his sureties, and if they determine the same to be insufficient, they shall cause a record thereof to be made, and a certified copy thereof to be forthwith served on said sheriff.

SEC. 4. If the sheriff shall neglect to give new security to the satisfaction of said justices, at or before the next term of the court for said county, they shall forthwith certify the same to the governor and council, who shall remove him from office, unless he shall, within twenty days after such certificate is made, give such new security to the satisfaction of the governor and council.

SEC. 5. Every sheriff may appoint so many deputies as he shall think proper, by deputation in writing under his hand and seal, and not otherwise, who shall each be sworn to the faithful discharge of the duties of his office before a justice of the peace, and the deputation and certificate of such oath thereon shall be recorded at length, in a book kept for that purpose by the clerk of the court of common pleas, and no deputy sheriff shall be deemed qualified to act as such until such record shall be made.

SEC. 6. Any sheriff may constitute a special deputy for the service and return of any process, by warrant endorsed thereon, in such manner as has been heretofore in practice in this State.

SEC. 7. Any sheriff may discharge from office any deputy by him appointed, by writing under his hand and seal, which shall be served by another deputy by reading the same, or giving an attested copy thereof to the deputy so discharged, and such discharge with a certificate of the service thereof, shall be recorded in the manner prescribed for recording deputations.

SEC. 8. Every sheriff shall be responsible for the official conduct of his deputies respectively, until such discharge and the certificate of service thereof shall be recorded as aforesaid.

SEC. 9. The sheriff of every county, by himself or his deputy, shall serve and execute within his county all writs and precepts to him directed, issuing from lawful authority; and shall perform all the duties pertaining to the office of crier of the courts.

SEC. 10. If any sheriff, deputy sheriff or constable shall refuse or neglect to serve any legal precept to him directed and delivered for service, his legal fees therefor being first tendered, except in criminal cases when the precept shall be endorsed by the attorney general or solicitor, or by the clerk by order of the court, he shall forfeit the sum of fifty dollars to any person aggrieved thereby,

who shall sue therefor within three months after such neglect or refusal.

SEC. 11. If any sheriff or his deputy shall, on demand made, refuse or neglect to pay to the creditor in any execution, any sum of money received by him or his deputy on such execution, he shall forfeit and pay to such creditor five times the lawful interest thereof, so long as he shall detain the same after such demand made.

SEC. 12. Every sheriff, deputy sheriff or other officer, in the execution of his office for the preservation of the peace, or apprehending or securing any person violating the same, or for any other criminal matter or cause, may require suitable aid in the execution of his office; and if any person when so required, shall neglect or refuse to give such aid or assistance, he shall be punished by a fine not exceeding ten dollars, for the use of the town where the offence is committed.

SEC. 13. In case of the resignation or removal from office of any sheriff, or of the expiration of his term of office, he may execute all precepts then in his hands, and shall be answerable for the completing all business which may have been committed to his care, and for the delivery to his successor of all prisoners who may be in his custody, and for that purpose may detain such prisoners in his custody.

SEC. 14. Whenever a vacancy, from any cause whatever, shall happen in the office of sheriff of any county, the deputies and jailers then in office shall continue in office, and shall execute the same in the name of the late sheriff, until another is appointed and duly qualified, and until they have completed all business which may have been entrusted to them before the person appointed sheriff is qualified.

SEC. 15. No deputy sheriff shall receive any business after the expiration of thirty days from the next meeting of the governor and council after such vacancy shall have occurred.

SEC. 16. The defaults and misfeasances of such deputy sheriffs and jailers, during the time aforesaid, shall be deemed a breach of their respective bonds to the sheriff who shall have deceased, resigned or otherwise ceased to hold his office, and the executor or administrator of a deceased sheriff shall have like remedy for such defaults and misfeasances, as such sheriff would have had if he had continued in life and in the exercise of his office.

SEC. 17. When judgment shall be rendered against any sheriff, whether in his official or private capacity, execution shall issue against his goods, chattels and lands, and not against his body; but when he shall cease to hold his office, execution may issue against his goods, lands and body as in other cases.

SEC. 18. If any execution against the goods and lands of any sheriff shall be returned unsatisfied, the creditor may file a certified copy thereof and of the return thereon, with the secretary of state, who shall thereupon issue a notice to such sheriff informing him

thereof, and of the day when the same was filed, and if such execution shall not be paid with the costs of such copy and notice, within forty days after such notice is served on said sheriff, the governor, with advice of the council, shall forthwith remove him from his office.

SEC. 19. Any person injured by the breach of any sheriff's bond to the county, may after recovering judgment against the sheriff, his executors or administrators, in an action brought for the default, misfeasance or nonfeasance of such sheriff or his deputy, cause a suit to be instituted on such bond at his own cost, in the name of the county.

SEC. 20. The clerk of the court of common pleas shall deliver an attested copy of any sheriff's bond filed in his office, to any person applying and paying for the same, and such copy shall be received as evidence in any case; but if the execution of the bond shall be disputed, the court may order the clerk to bring the original bond into court.

SEC. 21. In every suit on such sheriff's bond the declaration shall set forth the condition of the bond, and assign the breach or breaches relied upon in the action, and judgment in such suit shall not be a bar to any other action on such bond assigning other breaches.

SEC. 22. In such suit, if the plaintiff shall recover, the judgment shall be rendered in favor of the county, for the use of the person alleged in the declaration to be injured by the breach or breaches assigned therein, and such person shall be taken and deemed to be the creditor for every purpose whatever.

SEC. 23. If the defendant shall recover judgment for costs, execution shall not issue therefor against the county, but the endorser of the writ shall be liable to pay the same, and a writ of scire facias may be forthwith sued out against him.

SEC. 24. The sheriff of each county shall be accountable to the treasurer thereof for all fines and forfeitures imposed by the superior court and court of common pleas, and for which warrants shall be issued to him by the clerks, unless the justices of said court shall certify to such treasurer that the same has not been and cannot be recovered, and for all money by him received for the use of the county.

SEC. 25. If any sheriff shall neglect or refuse to pay over to the county treasurer any such fine, forfeiture or money immediately on receipt thereof, or immediately after he shall voluntarily or negligently suffer any prisoner on whom the same was imposed, to escape, he shall forfeit and pay treble the amount thereof, with double costs of suit, on action brought by such treasurer in the name of the county, and such neglect or refusal shall be a good ground of removal of such sheriff from office.

SEC. 26. Every sheriff shall annually lay before the court of common pleas his account for all services done by himself or his deputies, for which the county is by law chargeable, and such

allowance shall be made him as justice may require ; and no such account shall be allowed unless it shall be presented within one year after the service is performed.

SEC. 27. No sheriff or deputy sheriff shall be suffered to appear in any court or before any justice, as attorney to any party in a suit, and if any sheriff or deputy sheriff shall make any process, writ, declaration or plea for any other person, the same shall be void.

SEC. 28. The deputies of each sheriff shall once in every twelve months at least, and oftener if required, render to such sheriff under oath a true account of all fees which they shall have received, or which shall accrue to them by virtue of their office, for their travel and service on all writs of mesne process, and pay over to the sheriff twenty per cent. of the amount thereof.

SEC. 29. Every sheriff shall, on the first Tuesday of January annually, render to the county treasurer under oath a true account of all moneys received from his deputies by virtue of his office, and return to such treasurer the accounts rendered him by his deputies, and the treasurer shall state the same in the annual statements he is required to make for publication.

SEC. 30. Such sheriff shall retain for his own use, if he shall receive so much, the sum allowed him by law, and the residue of the sums received by him as aforesaid, he shall, at the time of rendering his account, pay over to the county treasurer for the use of the county.

SEC. 31. Every sheriff shall retain for his own use the fees for all services by him personally made, and which he is by law bound to perform.

SEC. 32. No sheriff or deputy shall be disqualified from serving any writ or precept, in which any town or other corporation is a party, by reason of such sheriff or deputy being a citizen of such town, or a member of such corporation. (*Laws of 1844, chap. 140.*)

SEC. 33. Whenever any sheriff, having in his hands money collected on legal process, shall be trustee therefor, and shall refuse to pay over the same to the owner, there being first tendered to him a bond with sufficient surety to repay the same, or so much thereof as he may be charged with, including his legal costs, whenever he may be so charged, then the said sheriff shall be liable for interest on the same, from the time of the tender of such bond. (*Laws of 1845, chap. 232.*)

CHAPTER 190.

OF CORONERS AND CONSTABLES.

IDENTICAL WITH

Chapter 179 of the Revised Statutes.

SECTION

1. Coroners to give bond.
2. Remedy thereon.
3. Coroners to serve writs, when.

SECTION

4. Remedy on constable's bond.
5. Constables to serve process from justice.

SECTION 1. Every coroner, before he enters upon the duties of his office, shall give bond to the county for which he is commissioned, in the sum of five thousand dollars, conditioned for the faithful discharge of the duties of his office, with sufficient sureties, to be approved by the justices of the court of common pleas, and to be kept by the clerk of said court.

SEC. 2. Any person injured by the breach of any coroner's bond, may commence and maintain an action thereon, in the same manner he might do upon the bond given by a sheriff, if he were injured by the breach thereof, and subject to the same provisions.

SEC. 3. The coroner shall serve and execute all writs and processes directed to him, when the sheriff is a party, and in all cases where the sheriff is a party interested, or related to either party, he shall return talesmen and attend the jury, and in all such cases he shall have the same powers and authority as is by law vested in sheriffs in similar cases.

SEC. 4. Any person injured by the breach of any constable's bond, may commence and maintain an action thereon, in the name of the town, in the same manner he might do in the name of the county upon the bond given by the sheriff, if he were injured by the breach thereof, and subject to the same provisions.

SEC. 5. Any constable to whom any writ or other legal precept may be directed by a justice of the peace, is empowered and required to serve and return the same according to law, and is vested with the same powers and subject to the same liabilities in relation thereto as sheriffs are in like cases.

TITLE XXI.

OF ACTIONS AND PROCESS.

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- CHAPTER 191. Of actions.
 CHAPTER 192. Of the limitation of suits.
 CHAPTER 193. Of writs and endorsements.
 CHAPTER 194. Of the service of writs.
 CHAPTER 195. Of attachments.
 CHAPTER 196. Of the exemption of the homestead from attachment and levy or sale on execution.
 CHAPTER 197. Of arrests and bail.
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CHAPTER 191.

OF ACTIONS.

COMPILED FROM

Chapter 180 of the Revised Statutes.

" 844, Laws of 1849.

SECTION

1. Personal actions, where brought.
2. Actions against insurance companies, where brought.
3. Scire facias, where commenced.
4. Action, when levy made on property not belonging to debtor.
5. Assumpsit between copartners.
6. " " cotenants for property taken.
7. Assumpsit between cotenants for rent of lands.
8. No action, unless on written contract, respecting land.

SECTION

9. No action, unless on written contract :
 1. On special promise of administrator :
 2. On guaranties :
 3. In consideration of marriage :
 4. To be performed after a year.
10. No action for goods over \$33, unless contract in writing or delivery.
11. No action for bills till after grace.
12. Money paid for escapes, recovered.
13. Actions on the case only against officers, when.

SECTION 1. All personal or transitory actions, where both parties are inhabitants of this State, may be commenced in the county where either of the parties to the writ may be an inhabitant, and not elsewhere.

SEC. 2. Any person who has sustained or may sustain any loss by fire of buildings or other property insured by any insurance company in this State, may bring his action for said loss in any

county in this State where the insured resides. (*Laws of 1849, chap. 844.*)

SEC. 3. Actions of scire facias upon any judgment or other proceeding before a justice may be commenced in the court of common pleas, where the amount of the judgment or other demand claimed, including costs and interest, shall exceed thirteen dollars and thirty-three cents.

SEC. 4. An action of debt may be maintained, if commenced within six years, upon any judgment upon which an execution has been issued and returned satisfied, where it shall appear that the property levied or extended upon was not liable to be so levied or extended upon, for the amount equitably due and costs of levying, and such levy shall not be a discharge of such debt for any purpose.

SEC. 5. Any copartner or joint owner may maintain an action of assumpsit against one or more of his copartners or joint owners, to recover his just share of any goods or chattels, choses in action or the proceeds thereof received by such copartners or joint owners, and not accounted for, delivered, paid or otherwise settled for on demand.

SEC. 6. Any cotenant of real estate may recover by action of assumpsit against one or more of his cotenants his just share of the value of any trees destroyed, or cut or carried away by such cotenant, which were standing, lying or growing on such real estate, or of any other property attached thereto and destroyed, severed or carried away by such cotenant.

SEC. 7. If any cotenant of any real estate shall hold the exclusive possession and income thereof, against the will and without the consent of his cotenant, the cotenant so excluded may, in an action of assumpsit, recover of the person holding such possession the full amount of all damages he may have sustained thereby.

SEC. 8. No action shall be maintained upon any contract for the sale of lands, unless the agreement upon which such action shall be brought, or some memorandum thereof, is in writing, and signed by the parties to be charged therewith, or by some other person thereunto lawfully authorized by writing.

SEC. 9. No action shall be brought in the following cases:

First; to charge any executor or administrator upon any special promise to answer damages out of his own estate:

Second; to charge any person upon any special promise to answer for the debt, default or miscarriage of another person:

Third; to charge any person upon an agreement made upon consideration of marriage:

Fourth; to charge any person upon any agreement that is not to be performed within one year from the time of making it:

Unless such promise or agreement, or some memorandum or note thereof, is in writing and signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized.

SEC. 10. No action shall be brought upon any contract for the sale of any goods, wares or merchandise for the price of thirty-

three dollars or upwards, and no such contract shall be valid unless the buyer shall accept part of the property so sold and actually receive the same, or give something in earnest to bind the bargain or in part payment, or unless some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

SEC. 11. No bill of exchange, negotiable promissory note, order or draft, except such as are payable on demand, shall be payable until days of grace have been allowed thereon, unless it appear in the instrument that it was the intention of the parties that days of grace should not be allowed.

SEC. 12. If any person shall be compelled to pay any sum of money on the account of the escape of any prisoner, he may maintain an action therefor against such prisoner, and all persons aiding such escape.

SEC. 13. An action upon the case, and no other, shall be commenced against any sheriff, deputy sheriff, coroner or other officer for any damages arising from any default or misconduct in his office.

CHAPTER 192.

OF THE LIMITATION OF SUITS.

IDENTICAL WITH

Chapter 181 of the Revised Statutes.

SECTION

1. Real actions limited to 20 years.
2. Minors, &c., have 5 years after disability removed.
3. Actions for words and personal injuries limited to 2 years.
4. Other personal actions limited to 6 years.
5. Debt on judgment and contracts under seal, to 20 years.
6. On notes secured by mortgage, so long as action on mortgage lies.

SECTION

7. Writs of error to be brought in 3 years.
8. Minors, &c., have 2 years after disability ceases.
9. Time of absence from State, not computed.
10. New action in 1 year after judgment, if not a bar.
11. Special limitations not affected.

SECTION 1. No action for the recovery of any real estate shall be maintained, unless such action is brought within twenty years after the right first accrued to the plaintiff, or to any person under whom he claims, to commence an action for the recovery thereof.

SEC. 2. If the person first entitled to maintain an action for

the recovery of such real estate, was within the age of twenty-one years, a married woman or insane at the time such right accrued, such action may be commenced within five years after such disability is removed.

SEC. 3. Actions for words and for any assault, battery, wounding or imprisonment, shall be brought within two years after the cause of action accrued, and not afterwards.

SEC. 4. All other personal actions shall be brought within six years after the cause of action accrued, and not afterwards.

SEC. 5. Actions of debt founded upon any judgment or recognizance, or upon any contract under seal, may be brought within twenty years after the cause of action accrued, and not afterwards.

SEC. 6. Actions upon notes secured by mortgage may be brought so long as the plaintiff is entitled to commence any action upon the mortgage.

SEC. 7. Writs of error may be commenced within three years after judgment rendered, and not afterwards.

SEC. 8. Any infant, married woman or insane person, may commence either of the personal actions aforesaid within two years after such disability is removed.

SEC. 9. If the defendant, at the time the cause of action accrued or afterwards, was absent from and residing out of the State, the time of such absence shall be excluded in the computation of the several times before limited for the commencement of personal actions.

SEC. 10. If judgment shall be rendered against the plaintiff, in any action commenced within the times before limited, or upon any writ of error brought thereon, he may commence a new action thereon within one year thereafter, in case his right of action is not barred by such judgment.

SEC. 11. The provisions of this chapter shall not apply to any case in which, by any statute, a different time is limited.

CHAPTER 193.

OF WRITS AND MESNE PROCESS.

IDENTICAL WITH

Chapter 182 of the Revised Statutes.

SECTION

1. Proceedings in English language.
2. Writs, requisites of.
3. " shall be summons, *capias* and attachment.

SECTION

4. Writs, justice, how directed.
5. " " how returnable.
6. " " if defendant's property out of county.
7. Other process to be conformable.

SECTION

8. Writs in real actions to be summons or attachment.
9. Defendant's name unknown, how sued.
10. Writs of attachment, form of.
11. " " summons on attachment.
12. " " capias and attachment.

SECTION

13. Writs of summons, form.
14. " " replevin.
15. " " trustee, form.
16. " " scire facias, form.
17. " shall be endorsed.
18. Endorser's liability.
19. Remedy against endorser.

SECTION 1. All writs, declarations, processes, indictments, answers, pleadings and entries in the courts and before justices shall be in the English language, and no other.

SEC. 2. All writs and processes issuing from the clerk's office of any court, shall be in the name of the State of New Hampshire, shall be under the seal of such court, shall bear test of the chief, first, or senior justice of the court who is not a party, and shall be signed by the clerk and directed to the sheriff of any county in the State or his deputy, shall have force in any county, and be obeyed and executed by any officer to whom they may be directed.

SEC. 3. Original process in said courts shall be summons, attachment and capias, and shall be in the forms prescribed by law.

SEC. 4. Writs issued by justices of the peace shall be directed to the sheriff of the county or his deputy, and to any constable of any town in the county or to either of said officers.

SEC. 5. They shall be made returnable before such justice at a day, hour and place named therein, and shall be signed by him. In all other respects they shall be substantially in the form prescribed by law.

SEC. 6. When a defendant has personal property liable to attachment in any county in which he does not reside, a justice of the peace may direct his writ or execution to the sheriff of any county or his deputy, or to any constable of any town in which the defendant resides or has such property.

SEC. 7. In cases where no form of process is prescribed by law, such process shall be made conformable to the forms prescribed in this chapter, so far as the nature of the case will admit.

SEC. 8. In real actions and actions of ejectment, the original writ shall be a summons or an attachment only.

SEC. 9. When the name of a defendant is not known to the plaintiff, the writ may issue against him by a fictitious name, and if duly served, it shall not be abated for that cause, but may be amended on such terms as the court may order.

SEC. 10. The forms of writs shall be in substance as follows, in the following cases :—

ATTACHMENT.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county in this State, or his deputy.

We command you to attach the goods or estate of A. D. of, &c., to the value of dollars, and summon him (if to be found in your precinct) to appear before the justices of the court of to be holden at in said county of on the Tuesday of to answer to B. P. of in a plea of to the damage of the said B. P., as he says, the sum of dollars. And make return of this writ with your doings therein.

Witness J. P. Esquire, the day of A. D.

R. G. Clerk.

SEC. 11. SUMMONS WHERE GOODS ARE ATTACHED.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To A. D. of

We command you to appear at the court of to be holden at in said county of on the Tuesday of to answer to B. P. of in a plea of which plea the said B. P. has commenced against you, to be heard and tried at the said court, and your goods or estate are attached to the value of dollars for security to satisfy the judgment which may be recovered against you. Fail not of appearance at your peril.

Witness J. P. Esquire, the day of A. D.

R. G. Clerk.

SEC. 12. CAPIAS AND ATTACHMENT.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county in this State, or his deputy.

We command you to arrest the body of A. D. of or to attach his goods or estate to the value of dollars, (if to be found in your precinct,) and summon him to appear before the justices of the court of to be holden at in said county of on the Tuesday of to answer to B. P. of in a plea of to the damage of the said B. P., as he says, the

sum of dollars. And make return of this writ with your doings therein.

Witness J. P., Esquire, the day of A. D.
R. G. Clerk.

SEC. 13. SUMMONS.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county in this State, or his deputy.

We command you to summon A. D. of (if to be found in your precinct) to appear before the justices of the court of to be holden at in said county of to answer to B. P. of in a plea of to the damage of the said B. P., as he says, the sum of dollars. And make return of this writ and your doings therein.

Witness J. P. Esquire, the day of A. D.
R. G. Clerk.

SEC. 14. REPLEVIN.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county in this State, or his deputy.

We command you to replevy belonging to A. P. of wrongfully taken and detained, as it is said, by A. D. of and deliver the same to the said A. P., *provided* he give bond to the value of dollars, with sufficient sureties, to prosecute his replevin at the court of to be holden at in the county of on the Tuesday of and so from court to court until the cause be ended, and to pay such costs and damages as the said A. D. shall recover against him. And we command you to summon the said A. D. (if to be found in your precinct) to appear before the justices of the court aforesaid, at the time and place aforesaid, to answer to said A. P. in a plea of replevin to the damage of the said A. P., as he says, the sum of dollars. And make return of this writ with your doings therein.

Witness J. P. Esquire, the day of A. D.
R. G. Clerk.

SEC. 15.

TRUSTEE.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county in this State, or his deputy.

We command you to attach the goods or estate of A. D. of to the value of dollars, and summon him (if to be found in your precinct) to appear before the justices of the court of to be holden at in said county, on the day of to answer to A. P. of in a plea of to the damage of the said A. P., as he says, the sum of dollars. We also command you to attach the money, goods, chattels, rights and credits of the said A. D. in the hands and possession of E. T. to the value of dollars, and summon said E. T. (if to be found in your precinct) to appear at said court and show cause, if any he has, why execution should not issue against him for the damage which may be recovered by said A. P. against said A. D. And make return of this writ, with your doings therein.

Witness J. P. Esquire, the day of A. D.
R. G. Clerk.

SEC. 16.

SCIRE FACIAS.

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county in this State, or his deputy.

Whereas A. P. of by the consideration of the justices of the court of holden at in said county, on the day of recovered judgment against A. D. of for the sum of dollars, and costs taxed at as appears of record, and execution thereof remains to be done :

We command you, therefore, to summon the said A. D. to appear before the justices of the court of to be holden at in said county of on the Tuesday of to show cause, if any he has, wherefore the said A. P. should not have execution against him for the sums aforesaid. And make return of this writ and your doings therein.

Witness J. P. Esquire, the day of A. D.
R. G. Clerk.

SEC. 17. All original writs shall, before they are served, be endorsed on the back thereof by the plaintiff, his agent or attorney, being an inhabitant of this State, and if the plaintiff is not an inhabitant of this State, by some responsible person who is such inhabitant.

SEC. 18. The person so endorsing any writ, shall be liable, in case the plaintiff shall live out of the State, upon return of non est inventus, or that such execution as may have issued against the plaintiff, is unsatisfied, to pay to the defendant all such costs as he may recover against the plaintiff.

SEC. 19. Such defendant shall have his remedy by writ of scire facias against such endorser, which shall be served upon the endorser before the second term of the court after final judgment is entered against the plaintiff, or within one year after final judgment is so rendered before a justice, and not afterwards.

CHAPTER 194.

OF THE SERVICE OF WRITS.

COMPILED FROM

Chapter 183 of the Revised Statutes.

" 339, Laws of 1846.

" 1297, " " 1852.

SECTION

1. Notice, how long required.
2. Service of scire facias, review, &c.
3. Summons to be given, when.
4. What inserted in such summons.
5. Service, if defendant is not an inhabitant of the State.
6. Evidence of such service, what is.
7. When no mode of service is prescribed by law, court may order.

SECTION

8. Service, in real actions on mortgages and actions of dower, if tenant is not an inhabitant of this State.
9. Service on attorney, when.
10. " " towns, how made.
11. " " other corporations.
12. " " counties.

SECTION 1. All original writs and writs of mesne process shall be served upon individuals fourteen days before the sitting of the court to which the same are returnable, and upon corporations, thirty days before the sitting of such court.

SEC. 2. Writs of summons, scire facias and review shall be served by reading the same to the defendant, or by giving to him an attested copy thereof or leaving such copy at his usual place of abode; and if the writ is brought for dower, a like copy shall be left with the tenant or occupant of the land whereof the dower is demanded, if there is any.

SEC. 3. When the goods or estate of any person shall be attached, a summons in the form prescribed by law shall be delivered to the defendant or left at his usual place of abode, with the name and office of the officer serving the same endorsed by him thereon.

SEC. 4. Every such summons shall set forth the sum in the

note or obligation declared upon, with the endorsements and dates thereof, the amount of the account, in covenant what sum is demanded in damages, and for what, and in all cases shall briefly give to the defendant the same information which the declaration gives more at large, and shall contain the substance thereof.

SEC. 5. If any defendant is not an inhabitant of this State, and the writ is not served on him in person, but his goods or estate within this State are attached, an attested copy of the writ, with an attested copy of the return, may be given to the defendant or left at his usual place of abode, or left with his agent lawfully authorized to appear for him, or with his tenant on or near the land attached.

SEC. 6. The giving or leaving such copy with the defendant or at his place of abode, shall be proved by the certificate under oath of the officer who made the attachment, or of some proper officer in the state where the defendant lives, or of some other person.

SEC. 7. Whenever any action shall be commenced, the defendant in which is not a resident of this State, and no mode of service is prescribed by law, the action may be entered in the court to which the writ is returnable, and the court shall order such notice as the circumstances of the case require, which order being duly complied with, no further service shall be necessary. (*Laws of 1852, chap. 1297.*)

SEC. 8. In all real actions on mortgages and actions of dower, when the tenant is not an inhabitant of this State, or his residence is unknown to the officer serving the writ, or he is absent from the State and shall not have returned at the time appointed for the trial, and no personal service is made on him, service of the writ may be made, or notice of the pendency of such suit given, in the same way and manner as is provided for the service of writs or notice of the pendency of suits in personal actions in like cases where property is attached. (*Laws of 1846, chap. 339.*)

SEC. 9. Writs of review and of scire facias may be served, in case the defendant therein is not an inhabitant of this State, on the attorney who appeared for such defendant in the original action, or by giving to such defendant a copy of such writ and affidavit made thereof.

SEC. 10. Any writ or mesne process against any town may be served by giving to the town clerk, if any there be, or leaving at his usual place of abode an attested copy of the writ, and by giving to one of the selectmen, if any there be, or leaving at his usual place of abode a like copy; or, if there be no town clerk or selectmen, by giving such copy to one of the principal inhabitants or leaving the same at his usual place of abode.

SEC. 11. Any writ or process against any other corporation or body politic may be served by leaving an attested copy thereof with the clerk, treasurer or one of the directors; and in case of their absence from the State, with any principal member thereof,

or with the agent, overseer or person having the control and care of the corporate property or part thereof, or leaving the same at the usual place of abode of either of them.

SEC. 12. Any writ against a county shall be served by leaving an attested copy thereof with the clerk of the court of common pleas, thirty days before the sitting of the court to which such writ is returnable.

CHAPTER 195.

OF ATTACHMENTS.

COMPILED FROM

Chapter 184 of the Revised Statutes.

" 233, Laws of 1845.

" 720, " " 1848.

SECTION

1. What property may be attached.
2. Property exempt from attachment.
3. Real estate, how attached.
4. Return, evidence of time; town clerk to minute time.
5. Town clerk to keep index.
6. Fees of town clerk.
7. What interest holden by attachment of real estate.
8. Attaching creditor may tender, when.
9. May demand an account of sum due.
10. Creditor entitled to conveyance.
11. Rights of creditor and debtor, what.
12. Attachment not defeated by change of title.
13. Shares in corporations, how attached.
14. Pews, how attached.
15. Franchises, how attached.
16. Hay and other bulky articles, how attached.
17. Mortgaged property, how attached.
18. Mortgagee to give account of debt.
19. Property sold by consent of parties.
20. Perishable or expensive property may be examined.

SECTION

21. Persons to examine, how appointed.
22. Property sold on their certificate.
23. Appraisers appointed, when and how.
24. Schedule to be made and appraisal certified.
25. Property restored to debtor on bond.
26. " liable to attachment.
27. Officer to return doings and bond.
28. Bond for benefit of all attaching.
29. Scire facias may be sued out on bond by one or more creditors.
30. In debt, party suing shall endorse writ; how brought.
31. Endorsers to be deemed plaintiffs.
32. Attachments, how dissolved.
33. Not by death, unless estate insolvent.
34. Property or proceeds restored to debtor, if attachment dissolved.
35. Property holden 30 days after judgment in order of attachments.
36. Proceeds holden in order of attachments, if demanded in 30 days.
37. Property holden 30 days after a judgment in vacation.

SECTION 1. All property, real and personal, which is liable to be taken in execution, may be attached and held as security for the judgment the plaintiff may recover.

SEC. 2. The following goods and property shall be exempted from attachment and execution :

1. The wearing apparel necessary for the use of the debtor and his family ;
2. Comfortable beds, bedsteads and bedding necessary for the debtor, his wife and children ;
3. Household furniture to the value of twenty dollars ;
4. The bibles and school books in use in the family ;
5. One cow and one and a half tons of hay ;
6. One hog and one pig, and the pork of the same when slaughtered ;
7. Tools of his occupation to the value of twenty dollars ;
8. Six sheep and the fleeces of the same ;
9. One cooking stove and the necessary furniture belonging to the same ;
10. Provisions and fuel to the value of twenty dollars ;
11. The uniform, arms and equipments of every officer and private in the militia ;
12. The debtor's interest in one pew in any meeting house in which he or his family usually worship ;
13. The debtor's interest in one lot or right of burial in any cemetery.

SEC. 3. Real estate shall be attached on any writ or mesne process, by the officer leaving an attested copy of such writ and of his return of such attachment thereon, at the dwelling house of the town clerk of the town in which such real estate is situate, or if there is no town clerk, with the clerk of the court of common pleas of the county, without any other act or ceremony.

SEC. 4. The officer's return shall always be sufficient evidence that such copy has been so left and of the time thereof ; but the town clerk or clerk of the court shall certify thereon the time when such copy was received, and keep the same on file. (*R. S., sec. 4, amended by laws of 1848, chap. 720.*)

SEC. 5. It shall be the duty of the town clerk to provide and keep a general index of all attachments made by leaving a copy of the writ of attachment at his dwelling house, in which he shall enter at the time of receiving the copy of the writ on which the attachment is made, the day of receiving the same, the court to which the writ is returnable and the names of the plaintiff and defendant in the suit, with the names of the defendants alphabetically arranged ; which index shall at all times be open to public inspection. (*Laws of 1848, chap. 720, sec. 1.*)

SEC. 6. The officer making such attachment shall, at the time of making the same, pay to the town clerk the sum of twenty cents, which shall be in full for his services in receiving and filing the copy, certifying the time of receiving the same and entering the attachment upon said index. (*Laws of 1848, chap. 720, sec. 2.*)

SEC. 7. By an attachment of real estate, all the debtor's interest therein shall be held to satisfy the judgment, though such

interest be a right of redeeming the same upon a mortgage, or levy, or sale on execution or for taxes, or a right to receive a conveyance thereof by any contract. (*R. S., sec. 5.*)

SEC. 8. Any creditor attaching his debtor's interest in any real estate, whether such interest be a right of redeeming the same upon mortgage, or levy, or sale on execution, or for taxes, or a right to receive a conveyance by virtue of any contract, may at any time while such right exists, as well before as after sale thereof on his execution, pay or tender to the person entitled to the redemption or purchase money, the full sum due to him; and upon such payment or tender, the interest in such real estate derived from such mortgage, levy or sale, and the interest of the contractor in the real estate by him contracted to be conveyed, shall, as against such attachment, and the rights acquired under it, cease. (*Laws of 1845, chap. 233, sec. 1.*)

SEC. 9. Such creditor, or the officer serving the writ, may demand of the person entitled to the redemption money an account under oath of the amount due him; and if such account be not rendered within fifteen days after, or a false account shall be rendered, his said interest in such real estate shall, as against such attachment and the rights acquired under it, cease.

SEC. 10. If such creditor, after payment of the redemption money, shall suffer his attachment or levy to be dissolved, or the same shall in any way be defeated, he shall be entitled to receive from the person to whom the payment was made a good and valid conveyance of his right to such real estate.

SEC. 11. If any such person, being requested to make such conveyance, and having his reasonable charges therefor paid or tendered to him, shall unreasonably neglect or refuse to make and execute the same, such creditor may maintain an action of assumpsit against such person to recover the money paid as aforesaid with interest. The debtor in such case shall be entitled to notice in writing of such conveyance, neglect or refusal, and, after such notice, shall have the same time for redeeming such real estate that he had at the time of attachment.

SEC. 12. No attachment of any interest in real estate shall be defeated by any change of the nature of the debtor's right thereto, as by redemption of any mortgage or other incumbrance, or the execution to him of any conveyance pursuant to a contract, but the whole interest of the debtor upon such change shall be held by the attachment.

SEC. 13. The share or interest of any person in any corporation may be attached by the officer by leaving an attested copy of the writ and of his return thereon with the clerk, treasurer, cashier, agent or person having the care of the property of such corporation, or at his usual place of abode, and the dividends becoming due afterwards shall be holden by such attachment.

SEC. 14. Pews or seats in meeting houses or places of public worship shall be deemed personal property, and may be attached

by leaving an attested copy of the writ and of the officer's return thereon with the town clerk of the town in which such meeting house is.

SEC. 15. The franchise of any corporation authorized to receive tolls, so far as relates to the rights to receive tolls, with all the privileges and immunities belonging thereto, may be attached by leaving an attested copy of the writ and of the officer's return thereon with the clerk, treasurer or a director of such corporation.

SEC. 16. The officer attaching grain unthreshed, hay or potatoes, any lumber or fuel, bricks, stone, lime, gypsum or ore, manufacturing or other machinery, bark or hides in the process of tanning, may leave an attested copy of the writ and of his return of such attachment thereon, as in the attachment of real estate; and in such case the attachment shall not be dissolved or defeated by any neglect of the officer to retain actual possession of the property.

SEC. 17. Any personal property not exempt from attachment, subject to any mortgage, pledge or lien, may be attached as the property of a mortgager, pledger or general owner, the attaching creditor or officer paying or tendering to the mortgagee, pledgee or holder the amount for which said property is holden, as ascertained in the mode provided by the following section.

SEC. 18. Such creditor or officer may demand of the mortgagee, pledgee or holder an account on oath of the amount due upon the debt or demand secured by such mortgage, pledge or lien, and the officer may retain such property in his custody until the same is given, without tender or payment; and if such account shall not be given within fifteen days after such demand, or if a false account is given, such property may be holden discharged from such mortgage, pledge or lien.

SEC. 19. Personal property attached shall be sold by the officer before judgment, if the parties consent thereto in writing, and such sale shall be made in the same manner as sales of property taken on execution, unless a different mode shall be agreed on by the parties.

SEC. 20. When living animals or goods liable to perish, or waste, or to be greatly reduced in value by keeping, or which cannot be kept without great expense, are attached, and the parties do not consent to a sale, the officer, on application of either of the parties, may cause the same to be examined in the manner following:

SEC. 21. Three disinterested persons, conversant with the nature and value of such property, shall be appointed, one by the officer, one by the creditor and one by the debtor. The officer shall appoint an examiner for the creditor or debtor in any case where he might appoint an appraiser for the debtor upon the levy of an execution on real estate.

SEC. 22. The persons so appointed, being sworn to the faithful discharge of their duties, shall examine the property and decide

what part of the property is such as is described in the second preceding section, and certify the same to the officer, and he shall thereupon advertise and sell the property so certified, in the same manner as if the parties consented thereto.

SEC. 23. If the debtor shall, before such notice of sale, request any personal property attached to be restored to him, and the officer shall not agree with him as to the value thereof, the officer shall cause three disinterested persons to be appointed to appraise the same, who shall be appointed and sworn in the manner provided in the two preceding sections.

SEC. 24. The officer shall cause a schedule of such property to be prepared, and the persons so appointed shall appraise the same at their cash value at that time, and make a certificate of their doings on such schedule.

SEC. 25. The property so appraised, or the value of which has been agreed on by the officer and debtor, shall be restored to the debtor upon his giving bond to the sheriff, if the attachment is made by him or his deputy, otherwise to the coroner or constable making the same, in sufficient penalty, with sufficient sureties, conditioned to pay the appraised or agreed value thereof, or so much as may be necessary towards the satisfaction of any executions, for the payment of which the property or its proceeds are by law holden.

SEC. 26. Property attached shall be deemed to remain in the custody of the officer, so far as to be liable to attachment in the same manner it would have been if it had remained in his hands specifically, notwithstanding the same may have been sold or restored to the debtor, or taken from the officer by any writ of replevin.

SEC. 27. The officer shall make return of his doings upon every writ where property is sold by consent or upon such certificate as aforesaid, or restored to the debtor, and in those cases the bond taken shall be returned with the writ on which the first attachment is made, and shall be deemed a record of the court to which such writ is returnable.

SEC. 28. Every bond given by the debtor, and every replevin bond in the cases aforesaid, shall be deemed to be given for the benefit of all persons who have attached or may attach the same to the full value of the property.

SEC. 29. In case such bond shall be forfeited, any attaching creditor or his representative may bring a writ of scire facias thereon, within two years after the cause of such action shall accrue, and not afterwards. Two or more creditors may join in such action, and separate executions shall be awarded to each for the amount due to them respectively.

SEC. 30. Any party interested may maintain an action of debt on such bond in the name of the officer to whom the same is payable, within the period above limited. The name of such party shall be endorsed on the writ, and any other party may

cause his name to be so endorsed at any time by leave of the court.

SEC. 31. The persons whose names are so endorsed, shall be deemed the plaintiffs for every purpose, and execution shall issue in favor of each for the amounts due to them respectively, and against them for costs, if judgment should be rendered for the defendants in such action.

SEC. 32. When any judgment shall be rendered for the defendant, upon which execution may issue, or when the action shall be compromised or dismissed, the attachment made in such action shall be dissolved thereby.

SEC. 33. Attachments shall be dissolved by the death of the defendant, in case his estate shall be decreed to be administered as an insolvent estate, but not otherwise, if the cause of action by law survives.

SEC. 34. In case the attachments on any property are dissolved, or if the same has been sold, the money arising from the sale thereof, deducting the charges and expenses of sale, shall be restored to the debtor or his personal representative upon request, or if the same has been restored to the debtor on his bond, the said bond shall be void.

SEC. 35. Property attached shall be holden until the expiration of thirty days from the time of rendering such judgment in the action, in favor of the plaintiff, that execution may issue thereon; and if there are several attachments, the property shall be holden to the creditors in the order in which their attachments were made.

SEC. 36. The proceeds of property sold on any writ, and the amount secured by bond when property attached is restored to the debtor, shall be holden to pay the executions issuing in the actions in which the attachments were made, in the order in which they were made, if demanded by the officer to whom such execution may be committed, within thirty days after judgment is rendered.

SEC. 37. If judgment shall be rendered in vacation by direction of the court as of a previous term, the clerk shall enter of record the day on which the order of court is dated, and all property attached shall be holden until the expiration of thirty days from that date.

CHAPTER 196.

OF THE EXEMPTION OF THE HOMESTEAD OF FAMILIES FROM ATTACHMENT AND LEVY OR SALE ON EXECUTION.

IDENTICAL WITH

Chapter 1089, Laws of 1851.

SECTION

1. Homestead not to exceed five hundred dollars in value, exempt from attachment, &c.
2. Exemption to extend to any interest in homestead.
3. Sheriff executing any writ, &c., on application shall cause to be set off a homestead; appraisers appointed, duties of, sheriff's return, &c.

SECTION

4. When homestead cannot be divided without injury, how disposed of.
5. What the provisions of this act shall not extend to.
6. No conveyance of property set off valid, unless the wife join, &c.
7. Not to affect fraudulent purchases.

SECTION 1. The family homestead of the head of each family shall be exempt from attachment and levy or sale on any execution on any judgment rendered on any cause of action accruing since the first day of January, A. D. 1852: *provided*, such homestead shall not exceed in value five hundred dollars; such homestead shall not be assets in the hands of an administrator for the payment of debts, nor subject to the laws of distribution or devise, so long as the widow or minor children, or any or either of them, shall occupy the same; and no release or waiver of such exemption shall be valid unless made by deed executed by the husband and wife, with all the formalities required by law for the conveyance of real estate; or if the wife be dead, and there be minor children, by such deed executed by the husband, with the consent of the judge of probate for the county in which the land is, endorsed on said deed.

SEC. 2. Such exemption shall extend to any interest which the debtor may own in such homestead, and to any interest in any building occupied by him as a homestead standing on land not owned by him, to an amount not exceeding five hundred dollars.

SEC. 3. The sheriff executing any writ of execution founded on any judgment such as is mentioned in the first section of this chapter, on application of the debtor or his wife, if such debtor shall have a family, and if the lands and tenements about to be levied on, or any part thereof, shall be the homestead or estate thereof, shall cause a homestead, such as the debtor may select, not exceeding five hundred dollars in value, to be set off to the debtor in the manner following, to wit: he shall cause three appraisers to be appointed, one by the creditor, one by the debtor

and one by himself, who shall be discreet and disinterested men, resident in the county, and shall be sworn by a justice of the peace impartially to appraise and set off by metes and bounds a homestead of the estate of the debtor, such as he may select, not exceeding five hundred dollars in value; and the set off and assignment so made as aforesaid by the appraisers shall be returned by the sheriff, along with the writ, for record in court; and if no complaint shall be made by either party, no further proceedings shall be had against the homestead; but the remainder of the debtor's lands and tenements, if any more he shall have, shall be liable to levy or sale on execution: *provided*, that upon good cause shown, the court out of which the writ issued may order a reappraisement and reassignment of the homestead, either by the same appraisers or others appointed by the court, and under such instructions as the court may give; and such appraisal shall be made and returned to said court as aforesaid.

SEC. 4. When the homestead of any head of a family, being a debtor in execution, shall consist of a house, or a house and lot of land, which in the opinion of the appraisers cannot be divided without injury and inconvenience, they shall make and sign an appraisal of the whole value thereof, and deliver the same to the officer having the execution, who shall deliver a copy thereof to the execution debtor, or some member of his family of sufficient age to understand the nature thereof, with a notice thereof attached, that unless the execution debtor shall pay to said officer, the surplus over and above the five hundred dollars, within sixty days thereafter, said premises will be sold; and in case such surplus shall not be paid within the said sixty days, it shall be lawful for the officer to advertise and sell the same at auction, by posting up notices of the time and place of sale, with a description of the premises, in two or more of the most public places in the town where the same is situate, and a like notice in the next adjoining town, thirty days prior to the sale; and out of the proceeds of such sale to pay the said execution debtor, with the written consent of his wife, the sum of five hundred dollars; *provided*, *however*, if the wife of such debtor shall not consent to such payment, the sheriff or officer having such proceeds shall deposit said sum of five hundred dollars in some savings institution in this State, to the credit of said debtor and wife; and the same may be withdrawn therefrom only by the joint order of the husband and wife, or by the survivor in case one should decease; and the same shall be exempt from attachment and levy of execution for the term of one year from the time it shall be paid or deposited as aforesaid. And said sheriff or officer shall apply the balance of said proceeds on the execution, or so much thereof as shall be necessary to satisfy the same: *provided*, that no such sale shall be made unless a greater sum than five hundred dollars shall be bid therefor, in which case the officer shall return the execution for want of property, with a certificate thereon of his proceedings.

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SEC. 5. The provisions of this chapter shall not extend to any judgment rendered on any contract made before the first day of January, A. D. 1852, or judgment rendered on any note or mortgage executed by the debtor and his wife, nor any claim for labor less than one hundred dollars, nor to impair the lien by mortgage of the vendor for the purchase money of the homestead in question, nor of any mechanic or other person for any debt contracted for or in aid of the erection of the buildings, nor from the payment of taxes due thereon.

SEC. 6. No conveyance or alienation by the husband of any property exempt and set off as aforesaid, shall be valid unless the wife join in the deed of conveyance: *provided, however*, that such husband may, without the consent of his wife, mortgage such homestead, at the time of the purchase thereof, for the payment of the purchase money.

SEC. 7. The provisions of this act shall not be so construed as to affect any property fraudulently purchased by the debtor, when in insolvent circumstances.

CHAPTER 197.

OF ARRESTS AND BAIL.

COMPILED FROM

Chapter 185 of the Revised Statutes.

" 35, Laws of 1843.

SECTION

1. Females not to be arrested for debt.
2. Nor voters, on days of election.
3. Nor officers and soldiers on duty.
4. Nor administrators for causes of action against deceased.
5. Nor sheriffs while in office.
6. Nor defendants in real actions.
7. Nor upon a contract, where damages under \$13.33.
8. Nor on contract since March 1, 1841, unless on affidavit.

SECTION

9. Persons arrested discharged by justices, how.
10. Court may discharge debtor, how.
11. Discharge does not affect debt.
12. Court may permit arrest and bail pending a suit.
13. Bail, how taken on writ.
14. " " " after commitment.
15. Names and residence of bail to be returned.
16. Persons imprisoned held 30 days after judgment.

SECTION 1. No female shall be arrested or imprisoned upon any writ in any action founded on contract.

SEC. 2. No person entitled to vote at any town meeting, shall be liable to arrest upon any civil process on the day on which such meeting is held.

SEC. 3. No officer or soldier shall be liable to arrest upon any civil process while going to, returning from or attending at any military exercise or parade, or any court martial or court of inquiry, which it shall be his duty to attend.

SEC. 4. No executor or administrator shall be liable to arrest for any cause of action against any person deceased.

SEC. 5. No sheriff shall be liable to arrest upon any civil process while he remains in office.

SEC. 6. No person shall be liable to arrest on mesne process in any real action or action of ejectment.

SEC. 7. No person shall be arrested or imprisoned on any writ in any action founded on a contract, unless the debt or damage for the recovery of which such action may be brought, exclusive of all the costs, shall exceed the sum of thirteen dollars and thirty-three cents.

SEC. 8. No person shall be arrested upon any writ or execution founded on a contract made after the first day of March, one thousand eight hundred and forty-one, unless the plaintiff or some person in his behalf shall make an affidavit before a justice, on the back of such writ, that in his belief the defendant is justly indebted to him in a certain sum exceeding thirteen dollars and thirty-three cents, and that he conceals his property so that no attachment or levy can be made, or that there is good reason to believe he is about to leave the State to avoid the payment of his debts. (*R. S., sec. 8; amended by laws of 1843, chap. 35.*)

SEC. 9. The defendant in such case, when arrested, may require the officer making the arrest, to carry him before two justices, one of whom shall be of the quorum; and such justices upon considering his affidavit and such evidence as may be laid before them, if they believe he does not so conceal his property and has no intention to leave the State, may make an order for his discharge upon the writ or execution, and he shall be released.

SEC. 10. At the return term of such writ the defendant may move the court to be discharged, or that his bail or sureties may be discharged, and the court upon satisfactory evidence that the defendant does not conceal his estate and does not intend to leave the State, may order such discharge.

SEC. 11. No such discharge nor any discharge of any person arrested or imprisoned on execution, shall discharge the debt or judgment upon which the execution issued.

SEC. 12. In any case when no sufficient attachment has been made, and there is no sufficient bail, the court or any justice thereof, upon motion and satisfactory evidence that the defendant intends to leave the State, may order a *capias* to issue, on which the defendant may be arrested and held to bail as on an original writ.

SEC. 13. When any person shall be arrested on mesne process, he shall be committed to jail, unless he shall procure one or more persons of sufficient ability, to the satisfaction of the officer, to

become his bail by endorsing their names or signatures, as bail, on the back of the writ.

Sec. 14. Any person committed to jail before judgment by any officer, or by his bail, or upon a surrender by his bail in court, shall be discharged upon procuring one or more persons of sufficient ability, to the satisfaction of the keeper of the jail, to become his bail by endorsing their names or signatures, as bail, on the back of the copy or order of court on which such person shall be detained in jail, and the jailer shall make return of such copy or order and his doings thereon, into the court, and such endorsement and return shall be of the same force and effect as if made on the original writ.

Sec. 15. The officer taking any person as bail, shall return his name and place of abode upon the writ, copy or order of court on which such person shall be arrested or detained in prison.

Sec. 16. If any person shall be committed to prison by the officer or his bail, or upon surrender by his bail, he shall, unless he shall be bailed before the judgment, be held in prison until the expiration of thirty days after the rendition of such judgment for the plaintiff as execution may issue upon, unless sooner legally discharged.

TITLE XXII.

OF PROCEEDINGS IN COURTS.

- CHAPTER 198.** Of nonsuit, default, notice and abatement.
CHAPTER 199. Of tender, confession, pleading and set-off.
CHAPTER 200. Of views and evidence.
CHAPTER 201. Of depositions in perpetual remembrance.
CHAPTER 202. Of auditors.
CHAPTER 203. Of judgments.
CHAPTER 204. Of costs.
CHAPTER 205. Of reviews and new trials.
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CHAPTER 198.

OF NONSUIT, DEFAULT, NOTICE AND ABATEMENT.

COMPILED FROM
 Chapter 186 of the Revised Statutes.
 " 139, Laws of 1844.

SECTION

1. Neglect to enter action, penalty.
2. Nonsuit, costs for defendant.
3. Default to be entered, when.
4. " when struck off.
5. Notice by publication, when made.
6. " special, when given.
7. " by advertisement before justices.
8. Bond to respond on review, when.
9. Review, when to be brought.
10. Want of form, not to abate.
11. Amendments in substance made.

SECTION

12. Nonjoinder of tenants not to abate.
13. Disclaimer, costs on, when.
14. Survivor of actions, when.
15. Surviving party may proceed, when.
16. Marriage of female defendant not to abate.
17. Marriage of female plaintiff not to abate.
18. Nonjoinder of any party not to abate.
19. Names of defendants struck out.
20. Notice of petitions, how given.
21. Order of notice in vacation, how given.

SECTION 1. If any person shall neglect to enter in court any action by him commenced, in which any process shall have been served on the defendant, judgment shall be rendered against him, on complaint, for costs.

SEC. 2. If the plaintiff, after entry of any action, shall become nonsuit, judgment shall be rendered against him in favor of the defendant for costs.

SEC. 3. If any defendant, on whom process has been duly served, shall neglect to appear at the court to which the same is

returned, his default shall be recorded and judgment shall be rendered against him for such damages as, upon inquiry, the plaintiff shall appear to have sustained.

SEC. 4. The defendant may be permitted to enter an appearance after a default, at the discretion of the court or justice, upon the payment of reasonable costs.

SEC. 5. In any action commenced against any defendant who is not an inhabitant of this State, or whose residence is unknown to the officer serving the writ, and the goods and estate of the defendant within this State shall be attached, or when the defendant shall be absent from the State at the time of commencing such action, and shall not have returned at the time appointed for trial, and no personal service is made on the defendant, the court, on the suggestion thereof, may order the action to be continued and notice to be given of the pendency thereof, by publishing the order of court in such newspaper printed in this State, and for such period of time as the court may therein direct, the last publication to be at least thirty days before the next term of the court.

SEC. 6. The court may also, in their discretion, order such further notice and in such form, by mail or otherwise, as they may think proper, and upon satisfactory evidence that the order of the court has been complied with, such notice shall be sufficient.

SEC. 7. In actions before a justice commenced by attachment, if no personal service is made upon the defendant by reason that he resides out of the State, or that his residence is unknown to the officer serving the writ, the action shall be continued not less than sixty nor more than ninety days, and the justice shall order notice of the pendency of such suit to be given by posting up a copy of such order in two or more public places in the town where the defendant was last known to be an inhabitant in this State, forty days at least before the day to which said action shall be continued.

SEC. 8. If the defendant shall not appear at the time and place to which said action was continued, judgment shall be rendered on satisfactory evidence that notice has been posted up as aforesaid, and execution shall issue thereon upon the plaintiff filing with the justice a bond, with sufficient sureties, to the defendant, to respond the judgment which the defendant may recover upon a review of said action.

SEC. 9. Such review may be brought before the justice at any time within two years after the rendition of the judgment, and the plaintiff in such review may have the benefit of all pleas and advantages which he might have had in the original action.

SEC. 10. No writ, declaration, return, process, judgment or other proceeding in the courts or course of justice, shall be abated, quashed or reversed for any error or mistake, where the person or case may be rightly understood by the court, nor through defect or want of form or addition only, and courts and justices may, on motion, order amendment in any such case.

SEC. 11. Amendments in matter of substance may be permitted in any action, in any stage of the proceedings, upon such terms as the court shall deem just and reasonable, but the rights of third persons shall not be affected thereby.

SEC. 12. In real actions the writ shall not abate because all the tenants are not named in it, but those on whom the writ is served shall answer for such part of the premises demanded as they claim, and may disclaim for the residue.

SEC. 13. In any real action the defendant who shall disclaim the whole, shall recover costs, unless the plaintiff shall maintain his writ as to the whole or part of the demanded premises.

SEC. 14. Actions of trespass for breaking and entering on any real property, actions on the case for trover and conversion, actions against any sheriff or his deputy for any faults and misdoings in office, real actions, actions of ejectment, and actions of trespass for taking and carrying away any goods and chattels, shall not abate by reason of the death of either party, but may be prosecuted to judgment and reviewed in the same manner as other actions the cause of which by law survives. All actions in which the right of action does not now by law survive the death of either party, which have been commenced in any court of competent jurisdiction to try the same, may be prosecuted to final judgment at the election of the surviving or legal representative of the deceased party, in the same manner as other actions the cause of which by law survives. (*R. S., sec. 14, and laws of 1844, chap. 139.*)

SEC. 15. If there are two or more plaintiffs or defendants, and either of them shall die, the action shall not be abated if the right of action shall survive, but may be prosecuted by or against the surviving parties, such death being suggested on the record.

SEC. 16. If any female defendant shall marry pending any action, the court, upon suggestion, may order notice of such suit to the husband, and upon evidence that such order has been complied with, the action shall proceed against the husband and wife, in the same manner as if it had been originally commenced against them.

SEC. 17. No action shall be abated by the marriage of any female plaintiff, if the husband after due notice, to be directed by the court, shall become party to the suit, in which case the action shall be prosecuted in the same manner as if the same had been originally commenced by the husband and wife.

SEC. 18. No action shall be abated by the plea that there are other plaintiffs or defendants who ought to be joined therein, but such persons may be made parties to the action upon such terms as the court shall order, and may be summoned by writ of *scire facias*, or notified by publication in some newspaper, as the court may order, and the action shall thereafter proceed as if their names were inserted in the original writ.

SEC. 19. In all actions where there are two or more defendants,

the plaintiff may amend the writ before the evidence is closed, by striking out the names of one or more of the defendants, on paying them their costs up to that time.

SEC. 20. When any petition, complaint, libel, application or motion in writing shall be filed in court, the court shall order notice thereof to be given in such manner as they think proper, and no judgment or decree shall be rendered thereon without compliance with such order.

SEC. 21. Any such petition, complaint, libel, application or motion may be filed in the clerk's office in vacation, and order of notice may be issued thereon under the direction and rules of said court.

CHAPTER 199.

OF TENDER, CONFESSION, PLEADING AND SET-OFF.

COMPILED FROM

Chapter 187 of the Revised Statutes.

“ 503, Laws of 1847.

SECTION

1. Tender to the attorney, how made.
2. Confession of damages, when.
3. Brief statements under general issue.
4. Plaintiff in actions may file replications to pleas.
5. When pleadings shall be maintained.
6. Set-off of mutual debts, when.

SECTION

7. Set-off by and against administrators.
8. “ of bonds, when allowed.
9. Plea or notice of set-off given.
10. Continuance, if no notice before court.
11. Judgment for balance for either party.
12. No set-off unless right of action exists.

SECTION 1. At any time before the sitting of the court to which any writ may be returnable, the defendant may tender to the plaintiff's attorney who brought the action the amount of the debt and costs, and such tender shall be a bar to any further proceedings in such case.

SEC. 2. In any action the defendant may confess the plaintiff's action or any part thereof, and that the plaintiff is entitled to recover certain real estate or a certain amount of debt or damages, and plead to the residue of his claim, and if the plaintiff shall afterwards prosecute his action, and shall not recover more than is so confessed, the defendant shall recover his costs from the date of such confession.

SEC. 3. No special plea shall ever be required in any civil action, except a plea of title to real estate before justices of the peace. Either party may give in evidence any matter in support or defence of the action under the general issue, upon filing in

court a brief statement thereof within such time as the court may order.

SEC. 4. Whenever the defendant in any action shall plead one or more special pleas, the plaintiff may reply thereto all such matters as may be material in answer to or avoidance of the matters alleged in said pleas, and for that purpose may file as many separate replications as the nature of the case may require. (*Laws of 1847, chap. 503, sec. 1.*)

SEC. 5. If, upon the trial of any issue framed upon such pleadings, either party shall maintain by his evidence such of the matters by him alleged in pleading, as would constitute a legal answer to or avoidance of the matters alleged in the pleadings of the other party, such issue shall be considered to be maintained on the part of the party producing such evidence, notwithstanding other matters alleged in his pleadings may not be sustained by the proof. (*Laws of 1847, chap. 503, sec. 2.*)

SEC. 6. If there are mutual debts or demands between the plaintiff and defendant at the time of the commencement of the plaintiff's action, one debt or demand may be set off against the other.

SEC. 7. Mutual debts or demands existing between any person deceased at the time of his death and any other person, may be set off in actions by or against the executor or administrator.

SEC. 8. If the defendant's debt or demand is founded on any bond or specialty with a penalty, the amount equitably due only shall be set off.

SEC. 9. The defendant may plead such set off or give notice thereof with a plea of the general issue, describing such debt or demand with the same certainty as is required in a declaration.

SEC. 10. The plaintiff shall be entitled to one continuance in case of a set-off, unless a particular statement of such debt or demand, with a notice that the defendant will set off the same, has been served on the plaintiff ten days before the sitting of the court.

SEC. 11. Judgment shall be rendered for the balance which may appear to be justly due to either of the parties, unless in cases before justices the balance due to the defendant shall exceed thirteen dollars and thirty-three cents; in which cases judgment shall be rendered for costs only.

SEC. 12. No debt or demand shall be set off as aforesaid, unless a right of action existed thereon at the commencement of the plaintiff's action.

CHAPTER 200.

OF VIEWS AND EVIDENCE.

COMPILED FROM

Chapter 188 of the Revised Statutes.

“ 704, Laws of 1848.

SECTION

1. View, when and on what terms.
2. Summons, form of.
3. Clerks may issue, for witnesses.
4. Justices “ “ “ “
5. Summons to depose, justice may issue.
6. “ how served on witnesses.
7. Liability for neglect to attend.
8. Courts may compel attendance.
9. No person disqualified as a witness by his religious belief.
10. Ceremony in swearing.
11. Affirmation, when allowed.
12. Members of public corporations, &c., competent.
13. Depositions, when may be taken.
14. Who may take depositions.
15. Notice given to residents, how.

SECTION

16. Notice given to attorneys, when.
17. Attorney, who is, for this purpose.
18. Who disqualified to take depositions.
19. Deposition, how signed and sworn.
20. Certificate of taking, requisites.
21. Proof of notice annexed to certificate.
22. Neglect to take, after notice, penalty.
23. Depositions to be sealed and directed.
24. “ “ “ in perpetual remembrance.
25. Statement of claim to be made.
26. Notice, how to be given.
27. Deposition, how to be taken.
28. “ may be recorded, how.
29. “ or copy, when used.
30. Witness to attend out of State, when.
31. Neglect to attend as such, penalty.

SECTION 1. In all actions involving questions of right to real estate, the court of common pleas, on motion of either party, may in their discretion direct a view of the premises by the jury under such rules as they may prescribe, and subject to such adjudication as to the whole or part of the costs thereof as they shall think equitable.

SEC. 2. Writs of summons to witnesses shall be signed by the clerk or justice by whom they are issued, directed to the person to be summoned, and shall be substantially in the form following:

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To

You are required to appear at _____ in the county of _____
 on the _____ day of _____ to testify what you know
 relating to a plea of _____ to be heard and tried betwixt
 plaintiff, and defendant.

Hereof fail not, as you will answer your default under the penalties prescribed by law.

Dated at the day of A. D., 18 .

SEC. 3. Clerks of the courts may issue writs of summons for witnesses in all cases pending in such courts.

SEC. 4. Every justice may issue writs of summons for witnesses in cases pending in any court, in all matters before the general court, in cases pending before himself or any other justice, and in all matters triable before auditors, referees, arbitrators or commissioners.

SEC. 5. Every justice or notary may issue writs of summons to witnesses to appear before himself or any other justice or notary to give a deposition in any matter or cause where the same may be lawfully taken.

SEC. 6. Any person may be summoned to attend as a witness to testify or give a deposition by reading to him the writ of summons and paying or tendering to him the fees by law established for his travel to and from the place where his attendance is required, and for one day's attendance.

SEC. 7. If any person so summoned shall neglect to attend, or to give his attendance so long as may be necessary for the purpose for which he was summoned, or refuse to testify or to give his deposition if required, having no reasonable excuse therefor, he shall be liable to the party aggrieved for all damages sustained by such default or refusal.

SEC. 8. Every court and justice before whom any witness has been summoned to appear and testify or give a deposition, may bring any such witness neglecting or refusing to appear and testify, by attachment, before them, and if on examination he has no reasonable excuse, may punish him by a fine not exceeding fifty dollars, if imposed by a court, or ten dollars if imposed by a justice, and may order him to pay costs.

SEC. 9. No person who believes in the existence of a Supreme Being shall be adjudged an incompetent witness in any judicial proceeding on account of his opinions on matters of religion.

SEC. 10. No other ceremony shall be deemed necessary in swearing than holding up the right hand.

SEC. 11. Persons scrupulous of swearing may affirm, the magistrate administering the oath using the word "affirm" instead of the word "swear," and the words "this you do under the pains and penalties of perjury," instead of the words "so help you God."

SEC. 12. Inhabitants of towns, and members of public corporations, and members of mutual insurance corporations, shall be competent witnesses in cases affecting the interests of such corporations.

SEC. 13. The deposition of any witness in a civil cause may be taken and may be used upon the trial, if at the time of trial

the witness has deceased, is insane, is old and infirm, is sick or unable to attend the court, or lives out of the State, or who is about to leave the State and not return before the time of trial, or lives more than ten miles from the place of trial. (*R. S., sec. 13, amended by laws of 1848, chap. 704.*)

SEC. 14. Any justice or notary public in this State, any commissioner appointed under the laws of this State to take depositions in other states, any judge, or justice of the peace, or notary public in any other state or country, may take such depositions.

SEC. 15. The party proposing to take such deposition shall cause a notice in writing signed by a justice or notary, stating the day, hour and place of taking the same, to be delivered to the adverse party or one of them, or left at his usual place of abode, if either of such parties reside in this State, or within twenty miles of the place of taking or of the party taking the same, a reasonable time before the taking thereof.

SEC. 16. If such adverse party resides out of the State, or more than twenty miles from the place of caption or from the party proposing to take such depositions, a like notice given to the agent or attorney of such adverse party, or left at his usual place of abode, shall be sufficient.

SEC. 17. No person shall be deemed such agent or attorney for this purpose, unless he has endorsed the writ or the summons to be left with the defendant in the cause, or appeared for his principal before the court, justice, referees or arbitrators where the action is pending, or shall have given notice in writing that he is such attorney or agent.

SEC. 18. No person shall write the testimony of any witness or act as magistrate in taking the same who would be disqualified to act as a juror on the trial of the cause for any reason except exemption from service as a juror.

SEC. 19. Every witness shall subscribe his deposition and shall make oath that such deposition contains the truth, the whole truth, and nothing but the truth relative to the cause for which it was taken.

SEC. 20. The magistrate taking any deposition shall certify such oath with the time, place and cause of taking the same, and the case and court in which it is to be used, and that the adverse party was or was not present, was or was not notified, and that he did or did not object.

SEC. 21. A copy of the notice left with the adverse party, his agent or attorney, with the return of the officer or affidavit of the person leaving such notice thereon, stating the time of leaving the same, shall be annexed to the certificate of the taking thereof, when the adverse party did not attend.

SEC. 22. If any party, after giving notice to the adverse party as aforesaid, shall neglect or refuse to take a deposition, such adverse party shall be entitled to recover twenty-five cents a mile for actual travel of himself or his attorney to attend the same, by

action on the case, unless seasonably notified in writing signed by the party giving such notice that such deposition will not be taken.

SEC. 23. Depositions shall be sealed up by the magistrate taking the same, directed to the court or justice before whom they are to be used, with a brief description of the case, and shall be so delivered into court.

SEC. 24. Depositions may be taken in perpetual remembrance of any fact or transaction, before any court of record or before two justices, one of whom shall be of the quorum.

SEC. 25. Any person wishing to take such depositions shall make a statement in writing, under oath, briefly setting forth in substance his title, interest or claim in or to the subject, or setting forth the facts to which the desired testimony relates, and the names of all persons supposed to be interested therein, and also the names of the witnesses proposed to be examined, which statement shall be delivered to the court or justices before whom the depositions are to be taken.

SEC. 26. Notice shall be given in the manner provided by law in cases of depositions taken to be used in actions then pending, to all persons known to be interested in the property or transaction to which the testimony relates.

SEC. 27. Every such deposition shall be written, signed and sworn to as is provided in this chapter in case of depositions in actions pending, with the necessary variation in the form of the oath; and the said court or justices shall annex to each deposition a certificate of the time and place of taking, the name of the person at whose request it was taken, and of all those who were notified to attend and did attend, and shall also annex thereto a copy of the notice, as is prescribed in the twenty-first section of this chapter.

SEC. 28. The said statement, deposition, certificate and copy of notice shall, within ninety days after taking the same, be recorded in the registry of deeds in the county where the land or any part of it lies, if the deposition relate to real estate, and if not, in the county in which it was taken.

SEC. 29. All depositions taken in perpetual remembrance as aforesaid, or a copy of such record, the original being lost, may be used in the trial of any cause between the person at whose request it was taken and any of the persons named in the statement and duly notified, or those claiming under them, concerning the title, claim, interest or facts set forth in the statement.

SEC. 30. If the clerk of any court in any other of the United States shall certify that there is a criminal cause pending in such court, and that a person residing in this State is supposed to be a material witness therein, any justice shall, upon such certificate or paper annexed thereto, issue a summons requiring such witness to appear and testify at such court.

SEC. 31. If any person on whom such summons shall be served, having tendered to him twelve cents for each mile to be travelled.

to and from such court, and two dollars for each day his attendance may be required, shall unreasonably neglect or refuse to attend and testify at said court, he shall forfeit the sum of three hundred dollars to any person who will sue for the same.

CHAPTER 201.

OF DEPOSITIONS IN PERPETUAL REMEMBRANCE.

IDENTICAL WITH Chapter 728, Laws of 1848.

SECTION

1. Commissioners to be appointed.
2. Statement of persons wishing to take depositions, to whom made.
3. Commissioner to give notice.

SECTION

4. Deposition to be signed and sworn to.
5. Evidences to be filed and recorded.
6. Depositions taken may be used in trials.

SECTION 1. Whenever it shall appear in evidence, to the satisfaction of the justices of the court of common pleas, at any term of said court in this State, that any records of the sales of lands for taxes by any sheriff of the county in which such term is holden, have been burnt or destroyed, or lost, then said court may appoint a commissioner or commissioners to take depositions in perpetual remembrance of any fact or transaction of which said records, if in existence, would have been the proper evidence.

SEC. 2. Any person wishing to take such depositions shall make a statement in writing, under oath, briefly setting forth in substance his title, interest or claim in or to the subject, or setting forth the facts, as near as may be, to which the desired testimony relates, and the names of the witnesses proposed to be examined, which statement shall be delivered to said commissioner or commissioners.

SEC. 3. The said commissioner or commissioners shall give notice of the taking of such deposition or depositions by publishing in the New Hampshire Patriot and State Gazette, printed in Concord, and in some newspaper printed in the county in which the land, the title to which may be affected by such deposition or depositions, is situated, if any there be, the substance of such statement, with the time and place of taking such deposition or depositions, which said notice shall be published in said newspaper or newspapers three weeks successively, commencing at least eight weeks before the time of taking, and shall cause a like notice to be posted up in some public place in the shire town or towns of the county in which the lands lie, during the same period. And

said commissioner or commissioners may give such further notice as they shall deem expedient.

SEC. 4. Every such deposition shall be written, signed and sworn to as is provided in the case of depositions to be used in the courts of this State, with the necessary variation in the form of the oath; and the said commissioner or commissioners shall annex to each deposition a certificate of the time and place of taking, the name of the person or persons at whose request it was taken, of the notice and of the names of the persons who attended the taking.

SEC. 5. The evidence of the destruction of papers aforesaid, the record of the action of the court thereon, and of the appointment of commissioner or commissioners, said statement, deposition and certificate, shall, within ninety days after the taking thereof, be filed and recorded in the records of the court of common pleas in the county wherein the lands lie, the title whereto may be affected by such taking.

SEC. 6. All depositions taken in perpetual remembrance as aforesaid may be used in the trial of any cause, wherein the matters concerning which they were taken are drawn in question; and in case said depositions shall be lost, or out of the possession and control of the party desiring to use the same, a copy of such record may be used instead of the originals.

CHAPTER 202.

OF AUDITORS.

IDENTICAL WITH

Chapter 189 of the Revised Statutes.

SECTION

1. Auditors, when appointed.
2. In actions between copartners and co-tenants.
3. Auditors; to be sworn; give notice; may adjourn; report, how made.
4. Auditors discharged or report recommitted, when.

SECTION

5. Case may be tried by jury, when.
6. If party refuse to produce books, &c., report may be, what.
7. Judgment in such case, how rendered.
8. Auditors' compensation, how paid.

SECTION 1. Whenever it shall appear to the superior court or court of common pleas, that an investigation of accounts or an examination of vouchers is necessary in any action pending in such court, they may appoint one or more auditors to state the account between the parties and make report to the court.

SEC. 2. Auditors may be appointed in actions brought by copartners or cotenants against their copartners or cotenants.

SEC. 3. Auditors shall be sworn and shall give notice to the parties of the time and place of hearing, may adjourn when necessary, and shall all hear the parties, but a majority may report.

SEC. 4. Auditors may be discharged by the court and others appointed, or their report may be recommitted for revision.

SEC. 5. If either party is dissatisfied with the report, the case may be tried by jury, and such report shall be given in evidence to the jury, subject to be impeached by evidence offered by either party.

SEC. 6. If either party shall neglect or refuse to appear before the auditor, or to render an account, or to produce such books and papers and to answer on oath such interrogatories relating to the matter in controversy as may be pertinent and material, the auditor shall certify the same to the court.

SEC. 7. The court shall thereupon render judgment against such party, as upon nonsuit or default, and, if necessary, cause the damages to be assessed by the jury.

SEC. 8. The court shall allow a reasonable compensation to the auditors, which shall be paid by the plaintiff and taxed in his bill of costs, if he recover.

CHAPTER 203.

OF JUDGMENTS.

IDENTICAL WITH

Chapter 190 of the Revised Statutes.

SECTION

1. Judgments to be rendered in dollars and cents.
2. Interest, at what rate; usury.
3. Evidence, and triple deduction made.
4. What is not usury.
5. Statement of betterments made.
6. Verdict as to amount, how rendered.
7. Judgment, how entered.

SECTION

8. Judgment, on bond, to be for the amount equitably due.
9. " security for future breaches.
10. " scire facias on, in such cases.
11. " on mortgages conditional.

SECTION 1. All judgments shall be rendered in dollars and cents.

SEC. 2. Interest in the rendition of judgments and in all business transactions where interest is secured or paid, shall be computed at the rate of six dollars on a hundred dollars for one year, unless a lower rate is expressly stipulated; and every person who

upon any contract shall, directly or indirectly, receive interest at a higher rate, shall forfeit for every such offence three times the sum so received.

SEC. 3. When any person, for the recovery of any debt or damages, shall be sued upon any instrument hereafter made, and interest at a higher rate than six dollars for a hundred dollars for one year has been paid or secured upon the money sued for, or is secured by such instrument, if the debtor, (the creditor being alive,) will come into court where the action is pending, and offer to make oath, and, if required by the court, actually swear that there has been taken or secured upon the money sued for, or that there has been or is secured in and by the instrument sued, interest above the rate aforesaid, then the court in rendering judgment shall deduct from the sum lawfully due, three times the amount so taken or secured, unless the creditor will swear that he has not, directly or indirectly, willingly taken or secured on the money sued for, or secured in and by the instrument sued, any interest above the rate aforesaid.

SEC. 4. Nothing in this chapter shall extend to the letting of cattle or other usages of like nature in practice among farmers, or to maritime contracts, as bottomry, insurance or course of exchange, as heretofore used.

SEC. 5. Any person against whom any action may be brought for the recovery of real estate, may with his plea file a brief statement, setting forth that he and the persons under whom he claims, have been in the actual peaceable possession thereof, under a supposed legal title, for more than six years before the action was commenced, and that the value thereof has been increased by them by buildings or other improvements.

SEC. 6. The jury, if they find a verdict for the plaintiff, shall determine if the said lands have been so possessed and improved, and the amount of the increased value thereof, after allowing for any waste or injury the same may have sustained.

SEC. 7. The judgment rendered for the plaintiff upon such verdict, shall be conditioned that if the plaintiff shall, within one year, pay to the clerk of the court for the use of the defendant the amount of the increased value so found, a writ of possession shall issue for the plaintiff, otherwise all his right to such lands shall be forever barred.

SEC. 8. In all actions for the recovery of any penalty or forfeiture in any obligation or contract under seal, the superior court or court of common pleas shall render judgment for the amount which shall appear to be equitably due.

SEC. 9. If such penalty or forfeiture shall be designed to secure the performance of several things to be done at different times, judgment shall be rendered for the whole of such penalty or forfeiture, and the court shall award execution only for so much as is justly due at that time.

SEC. 10. The plaintiff or his administrator may, from time to

time, have a scire facias upon such judgment, and execution shall be awarded him for any further sums which may have become equitably due to him.

SEC. 11. In actions on mortgages the judgment shall be conditional, that if the mortgager or person having his right, shall pay to the mortgagee or person having his right, the sum the court shall adjudge due, within two months after judgment rendered with interest, such judgment shall be void, otherwise a writ of possession shall issue.

CHAPTER 204.

OF COSTS.

IDENTICAL WITH

Chapter 191 of the Revised Statutes.

SECTION

1. Costs to follow event, unless.
2. No cost in action on judgment, when.
3. Costs where several suits brought, how allowed.
4. Costs not to exceed damages in actions for personal injuries.

SECTION

5. Nor in trespass to real estate.
6. Costs limited where less than \$13.33 recovered, in what cases.
7. Court to limit and allow costs on motion.

SECTION 1. Costs shall follow the event of every action or petition, unless otherwise directed by law or by the court.

SEC. 2. No costs shall be allowed the plaintiff in any action upon a judgment upon which execution might lawfully issue, if the court shall be of opinion that the plaintiff could have availed himself of such execution as advantageously, for the collection of his demand, as he could of such action.

SEC. 3. When a plaintiff shall, at the same term, bring diverse actions against the same party which might have been joined, or shall bring more than one action upon a joint and several contract, the court may allow such and so many bills of cost as they may deem equitable.

SEC. 4. No more costs than damages shall be recovered in any action commenced in the court of common pleas for slander, assault and battery, imprisonment or malicious prosecution, unless the damages recovered shall exceed thirteen dollars and thirty-three cents.

SEC. 5. In actions of trespass for injuries to real estate commenced in the court of common pleas, when the title of real estate is not in question, the court shall allow so much cost as they may

think proper, not exceeding the damages recovered, in case such damages do not exceed thirteen dollars thirty-three cents.

SEC. 6. In all actions commenced in the court of common pleas, if it appears that the plaintiff had no reasonable expectation of recovering more than thirteen dollars thirty-three cents, the court may limit the costs to such sum as they think reasonable.

SEC. 7. In all actions or petitions pending in the superior court or court of common pleas in the county where the judgment was rendered, the said courts may, on motion and on good cause shown, limit and allow such costs and order such security for costs as they may deem just and reasonable.

CHAPTER 205.

OF REVIEWS AND NEW TRIALS.

IDENTICAL WITH

Chapter 192 of the Revised Statutes.

SECTION

1. Civil actions may be reviewed, if issue of fact joined.
2. Court may grant review in other cases.
3. Petition to be presented, where.
4. Terms may be imposed, how.
5. Limitation of review; exceptions.
6. Petition must be filed within three years.

SECTION

7. Reviews where triable; amendments.
8. Plaintiff in review to produce copies.
9. New evidence may be offered.
10. Judgment, how rendered.
11. " for costs, how rendered.
12. Costs limited in reviews, when.
13. Execution not stayed unless by order of court.

SECTION 1. All civil actions in which judgment has been rendered in the court of common pleas or superior court, in which any issue of fact has been joined, except those in which by law a different provision is made, may be once reviewed.

SEC. 2. The superior court may grant a review in any other case, where it shall appear that justice has not been done through any accident, mistake or misfortune, and that a further hearing would be just and equitable.

SEC. 3. In such case, a petition shall be presented to said court in the county where the original action was brought, by any person interested, setting forth the reasons for such review; and such notice shall be given to the adverse party or to his attorney as the court may order.

SEC. 4. The court may grant such review upon such terms and conditions, and may allow such costs to either party, upon the petition of review, as they may think just and reasonable.

SEC. 5. No action of review shall be brought of right after one year from the time of the judgment rendered, saving to any infant or insane person the right of such review for one year after such disability is removed.

SEC. 6. No review shall be granted upon petition, unless such petition is filed within three years after the rendition of the judgment complained of, or the discontinuance or failure of the original suit; and such review shall be commenced within ninety days after the grant thereof.

SEC. 7. All writs of review shall be returnable in the court of common pleas in the county where the judgment was rendered, and shall be tried upon the pleadings filed in the original action, if any, unless the court, upon such terms as they shall think reasonable, shall permit amendments to be made.

SEC. 8. The party bringing any action of review, shall produce in court attested copies of the writ, pleadings, judgment and all papers used and filed at the former trial, otherwise a nonsuit shall be entered.

SEC. 9. Every case shall be tried upon review in the same manner as if no judgment had been rendered therein, and any new or further evidence may be produced therein.

SEC. 10. If the amount of property, debt or damages recovered by the original plaintiff, is increased on review, he shall recover judgment for the excess and costs; if such amount is reduced, the original defendant shall recover judgment for the amount of such reduction and costs.

SEC. 11. If the original plaintiff shall review and shall not recover a greater amount of property, debt or damages, the defendant shall recover costs; if such review is brought by the defendant, and the amount of property, debt or damages is not reduced, the original plaintiff shall recover costs.

SEC. 12. No costs shall be recovered in an action of review, except those accruing upon such review, and the party bringing such review shall recover no more costs than the amount of the property, debt or damages he may recover therein, unless the original judgment shall be wholly reversed.

SEC. 13. Execution in the original action shall not be stayed by reason of any writ of review, but the court, on motion, may order a stay of execution, where it may appear just and reasonable, upon terms.

TITLE XXIII.

OF EXECUTIONS, LEVIES, BAIL AND RELIEF OF
POOR DEBTORS.

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- CHAPTER 206. Of executions.
 CHAPTER 207. Of levies on personal estate.
 CHAPTER 208. Of levies on real estate.
 CHAPTER 209. Of levies on equities of redemption.
 CHAPTER 210. Of levies and injunctions.
 CHAPTER 211. Of executions against towns.
 CHAPTER 212. Of imprisonment and prison bonds.
 CHAPTER 213. Of relief of poor debtors.
 CHAPTER 214. Of liability of bail.
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CHAPTER 206.

OF EXECUTIONS.

IDENTICAL WITH

Chapter 193 of the Revised Statutes.

SECTION

1. Executions, when to issue.
2. " from superior court, how returnable.
3. " from court of common pleas, how returnable.
4. " from justices, how returnable.
5. " may issue within two years.

SECTION

6. Interest payable on executions.
7. Executions issued on scire facias.
8. One only on same contract at a time.
9. If execution not against body, part to be omitted.
10. Execution, form of writ of.
11. Possession, form of writ of.
12. Execution against property of person imprisoned.

SECTION 1. No execution shall issue until the expiration of twenty-four hours after judgment rendered.

SEC. 2. Executions issued by the superior court may be made returnable at the next regular term of the court, if within six months, otherwise within six months from the date thereof.

SEC. 3. Executions issued by the court of common pleas may be made returnable at the next term of said court.

SEC. 4. Executions issued by justices may be made returnable within sixty days from the date thereof.

SEC. 5. Executions may be issued at any time within two

years after the judgment rendered, or after the return day of any former execution.

SEC. 6. Interest shall be payable on all executions in civil actions, from the time the judgment was rendered.

SEC. 7. The court may award execution on any judgment after the expiration of said two years, upon scire facias, for the amount then due, with interest.

SEC. 8. Where several judgments are rendered upon the same contract, at the same term, only one execution shall be issued on said judgments at one time, except by order of the court.

SEC. 9. Where any execution shall not run against the body of the defendant, the form may be varied by omitting such parts as relate to the arrest of the person.

SEC. 10. Writs of execution shall be substantially in the following form :

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county, or his deputy.

Whereas A. P. of by the consideration of our justices of our court of holden at in said county of on the Tuesday of recovered judgment against A. D. of for the sum of dollars and costs taxed at as appears of record, whereof execution remains to be done: We command you, therefore, that of the goods, chattels or lands of the said debtor in your precinct, you cause to be levied and paid to the said creditor the aforesaid sums, with lawful interest thereon, and more for this writ and your own fees, and in default thereof to arrest the said debtor and commit him to jail; and the keeper of such jail is required to detain him in custody until he pay the same, with your fees, or until he is discharged by the creditor or otherwise according to law, and make return of this writ with your doings thereon, to said court, to be holden at in said county, upon the Tuesday of

Witness J. P. Esquire, the day of A. D.

R. G. Clerk.

SEC. 11. Writs of possession shall be substantially in the following form :

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To the sheriff of any county of this State, or his deputy.

Whereas A. P. of by the consideration of our justices of our court of holden at in said county of on

the Tuesday of recovered judgment against A. D.
 of for a certain with the appurtenances, situate in
 the town of and costs taxed at as appears of record :
 We command you, therefore, that without delay you cause said
 A. P. to have possession of the said premises : We also command
 you that of the goods, chattels or lands of the said debtor in your
 precinct, you cause to be levied and paid to said creditor the
 aforesaid sum, with lawful interest thereon, and more for
 this writ and your own fees, and in default thereof to arrest the
 said debtor, and commit him to jail ; and the keeper of the jail is
 required to detain him in custody until he pay the same, with
 your fees, or until he is discharged by the creditor or otherwise
 according to law, and make return of this writ and your doings
 thereon unto said court, to be holden at in said county,
 upon the day of

Witness J. P. Esquire, the

day of

A. D.

R. G. Clerk.

SEC. 12. Whenever a debtor shall be committed to prison on execution, the creditor on the return of the same may have a further execution against the property of the debtor, notwithstanding the debtor shall not be discharged ; and upon the satisfaction of such execution, the debtor shall be discharged.

CHAPTER 207.

OF THE LEVY OF EXECUTIONS ON PERSONAL ESTATE.

IDENTICAL WITH

Chapter 194 of the Revised Statutes.

SECTION

1. Execution may be set off, when.
2. Money and bank notes may be levied on.
3. Chattels, how advertised and sold.
4. Personal property mortgaged, &c., may be levied on, how.
5. Proceeds of sale, how applied.
6. Right of redemption may be sold.
7. Owner may redeem before sale.
8. Proceeds, how applied on several executions.
9. Officer's returns, what to state.
10. Fraud in sale, penalty for.
11. Officer may adjourn sale, how.
12. Pews, how advertised and sold.

SECTION

13. Franchise, how advertised and sold.
14. Who is the purchaser, his rights.
15. Rights of corporation, how affected.
16. Shares in corporation, how taken on execution.
17. " " " how advertised and sold.
18. Notice, how given if debtor out of county.
19. Copy of return filed with clerk.
20. Officer of corporation to give account of shares ; penalty for refusal, &c.
21. Officer of corporation to exhibit records ; penalty for refusal, &c.

SECTION 1. Executions in which the creditor in one is debtor in the other, in the same right and capacity, shall be set off by the officer to whom one of such executions has been delivered, and the other shall be tendered; and such officer shall return both such executions satisfied, so far as such set-off will extend.

SEC. 2. Money may be taken on execution and paid to the creditor; bank notes and other evidences of debts issued by any moneyed corporation and circulated as money, may be taken on execution and paid to the creditor at their par value, if he will accept of them, otherwise they may be sold at auction like other chattels.

SEC. 3. Goods and chattels taken on execution shall be safely kept by the officer, at the expense of the debtor, four days at least; shall be advertised for sale, by posting up notices of the time and place of sale, at two of the most public places in the town where the sale is to be, forty-eight hours before the expiration of said four days, and sold at public auction to the highest bidder.

SEC. 4. Personal property subject to any mortgage, pledge or lien, may be taken in execution in the same manner it may be attached, and may be sold in the same manner as other personal property; and the creditor and officer shall have the same right to demand an account of the amount due and to hold the same, if no account or a false account is given, as in case of an attachment.

SEC. 5. The proceeds of the sale shall be applied to pay the sum paid or tendered to the mortgagee, pledgee or holder, and interest, and the residue to the satisfaction of the executions on which the same is holden.

SEC. 6. The debtor's right to redeem such property may be taken on execution and sold as in other cases, without such payment or tender.

SEC. 7. The owner may redeem any goods and chattels before the sale, by otherwise satisfying the execution and officer's fees and charges.

SEC. 8. The money arising from any sale of personal property shall be applied by the officer to the payment of the charges and the satisfying of the executions levied thereon, in the order in which the attachments thereon, if any, were made, otherwise in the order in which the executions were delivered to him; and the balance shall be returned to the debtor, upon request.

SEC. 9. The officer shall make return of the execution, according to his precept, with his doings thereon, particularly describing the goods and chattels taken and sold, and the sum for which each article was sold.

SEC. 10. If any officer shall be guilty of any fraud in the sale or return, he shall be liable to each party injured to pay him five times the sum defrauded.

SEC. 11. The officer may adjourn any sale under this chapter from time to time, not exceeding ten days at one time, or sixty

days from the seizure, giving the same notice of the adjournment as of a sale.

SEC. 12. Pews or seats in meeting-houses may be taken, advertised and sold on execution in the same manner as other personal property, except that if there has been no previous attachment, the debtor shall be notified by the officer of the time and place of sale of such pew or seat, by giving to him a notice in writing, or leaving such notice at his usual place of abode, if he resides in the town, otherwise with the town clerk, and the time of giving or leaving such notice shall be deemed the time of taking such property.

SEC. 13. The franchise of any corporation authorized to take tolls, may be taken and sold on execution at public auction, the officer giving notice of the time and place of sale, by posting up a notice thereof at any toll-house at which such tolls are or have been usually taken, and causing a like notice, with the name of the creditor and the amount of the execution, to be posted up at two or more public places in the town in which any toll-house of said corporation is situate, at least thirty days before the day of sale.

SEC. 14. The person who will pay such execution and the lawful fees and expenses thereon, for the right to receive all such tolls for the shortest period, shall be the highest bidder, and shall, upon such sale, be entitled to the possession of the toll-houses and gates of the corporation, to be delivered by the officer, and entitled to receive all such tolls for the term of his purchase, with all the rights of the corporation in relation thereto.

SEC. 15. The rights and obligations of the corporation, except as to such tolls, shall not be affected by such sale, and they may redeem such franchise by paying the purchaser the amount paid by him therefor, with twelve per cent. interest thereon, at any time within three months from such sale.

SEC. 16. The shares or interest of any person in any corporation may be taken on any execution, in the same manner they may be attached.

SEC. 17. Notice in writing of the time and place of sale of such share or interest, shall be given by the officer to the debtor, or left at his usual place of abode, and posted up at one or more public places in the town where the sale is to be, and in two adjoining towns, thirty days before the sale.

SEC. 18. If the debtor does not reside in the county, the posting up [of] such notice as prescribed in the preceding section, and publishing such notice in some newspaper, if any in the county, otherwise in an adjoining county, three weeks previous to the sale, shall be sufficient without further notice to the debtor.

SEC. 19. The officer shall cause an attested copy of the execution and of his return thereon to be filed with the clerk, treasurer or cashier of the corporation, and pay for the recording thereof; and the purchaser shall thereupon be entitled to such shares or in-

terest, and the income or dividends become due thereon since the attachment, and to such certificates as are the usual evidence of the shares or interest of a proprietor in such corporation.

SEC. 20. The officer of every corporation, having the care of the records or accounts of the shares or interests of the corporators therein, shall, on request and on the exhibition of a writ of attachment or execution against any person interested in such corporation, give to the officer having such writ, a certificate of the number of his shares or amount of his interest therein, with the numbers of the shares or other description by which they are distinguished; and on neglect or refusal to give such certificate, or if he shall wilfully give any false certificate thereof, he shall be liable to pay to the creditor the whole amount of his demand against such debtor, to be recovered by an action of debt.

SEC. 21. If any officer of a corporation shall, on request of an officer, and on exhibition of such writ of attachment or execution, refuse or neglect to exhibit to him such records and documents in his keeping as may be useful to direct and assist him in the discharge of his duty, he shall forfeit twenty dollars to the officer, and shall be answerable for all damages sustained by any person thereby.

CHAPTER 208.

OF LEVIES ON REAL ESTATE.

IDENTICAL WITH

Chapter 195 of the Revised Statutes.

SECTION

1. Real estate to be appraised.
2. Appraisers, how appointed; oath.
3. If debtor neglects or is absent.
4. Notice to officers of corporations.
5. Levy, when commenced and completed.
6. Appraisers to set off by bounds.
7. Undivided interest, when set off.

SECTION

8. How part set off in special cases.
9. Whole to be described in such case.
10. Rent or income, how extended.
11. Return to be made and recorded.
12. Effect if return is not recorded.
13. Debtor may redeem, how.
14. Creditor to release on payment.

SECTION 1. All real estate may be taken on execution, and shall be appraised and set off to the creditor, at its just value in satisfaction of such execution, and the cost of levying, except in those cases where by law a sale of it is authorized.

SEC. 2. The officer levying such execution shall cause three appraisers to be appointed, one by the creditor, one by the debtor and one by himself, who shall be discreet and disinterested men,

resident in the county, and shall be sworn by a justice impartially to appraise such real estate as shall be shown them as the estate of the debtor.

SEC. 3. If the debtor, on due notice, neglect to appoint an appraiser, or in case he does not reside in the county or within twenty miles of the property to be appraised, the officer shall appoint an appraiser for the debtor.

SEC. 4. Notice given to the clerk, treasurer, agent or one of the directors of a corporation, to choose an appraiser for the corporation, ten days before the levy, shall be legal notice to the corporation.

SEC. 5. A levy commenced by the appointment and swearing of one or more of the appraisers, may be completed before the return day of the execution.

SEC. 6. Such appraisers shall set off to the creditor, by metes and bounds, or other distinct description, the real estate appraised by them, or so much as may be necessary in payment of the execution and cost of levying.

SEC. 7. If such real estate is holden jointly or in common with others, the levy shall be made upon the undivided interest of the debtor or a part thereof.

SEC. 8. If such real estate cannot, in the judgment of the appraisers, be divided and set out by metes and bounds without greatly impairing the value of the whole, the levy may be made upon an undivided interest therein, or by such mode of division as the nature of the property will admit.

SEC. 9. In either of the cases aforesaid, the whole of the property of which part shall be set off, shall be described by metes and bounds or other distinct description.

SEC. 10. If any debtor is seized of a rent or of the income of any real estate, a levy may be made thereon, and the appraisers may set off the same for such term as they judge sufficient to pay the judgment, interest and costs; and the sheriff shall cause the tenant to attorn and become tenant to the creditor; and upon his refusal, shall turn him out of possession and deliver seizin to the creditor to hold for the term aforesaid.

SEC. 11. The officer shall deliver seizin and possession of the property so set off, to the creditor or his attorney, shall make a full return of his proceedings, and cause the execution and return to be recorded at length in the registry of deeds of the county, and returned to the office of the clerk of the court to which it is by law returnable.

SEC. 12. All debtor's interest in such real estate shall pass by the levy as against all persons whatever, if the levy is recorded as aforesaid on or before the return day of the execution; otherwise, only as against the debtor and his heirs until such record is made.

SEC. 13. Such extent shall be void, if, within one year from the return day of the execution, the debtor or any person interested shall pay or tender to the creditor the sum at which such real

estate was appraised, with interest from the time such levy was received for record by the register of deeds.

SEC. 14. The creditor, upon such payment or tender, having his reasonable charges therefor duly tendered to him, shall execute a release to the debtor of his right in such real estate acquired by such levy.

CHAPTER 209.

OF LEVIES ON EQUITIES OF REDEMPTION.

IDENTICAL WITH

Chapter 196 of the Revised Statutes.

SECTION

1. Rights in equity may be sold.
2. Notice to debtor and public given.
3. " by publication, when.
4. Levy, when commenced and completed.
5. Debtor may redeem, when and how.
6. Creditor to release, when and how.
7. Deed of officer, how made.

SECTION

8. Deed not valid unless recorded.
9. Proceeds of sale, how applied.
10. Purchaser, how liable for profits.
11. Right to receive conveyance sold.
12. " to redeem any interest sold.
13. Terms for years and other interests, how sold.
14. Rights of purchaser in such cases.

SECTION 1. Rights in equity of redeeming mortgaged real estate taken on execution, may be sold at public auction, and a valid deed thereof made by the officer to the purchaser; and such execution, with the doings of the officer thereon, shall be returned according to the precept thereof.

SEC. 2. Notice of the time and place of sale shall be given to the debtor or left at his usual place of abode, if he resides in the county or within twenty miles of the property, and a like notice posted up at two of the most public places in the town in which the property is situate, thirty days before the sale.

SEC. 3. If the debtor does not reside in the county or within twenty miles of the property, a like notice shall also be published in some newspaper printed in the vicinity, three weeks successively before the sale.

SEC. 4. The levy shall be commenced by posting up notices as aforesaid, and may be completed afterwards, and the sale may be adjourned, not exceeding ten days at a time nor sixty days in the whole, notice of the adjournment being posted up in the same manner as notices of the sale.

SEC. 5. If the debtor shall, within one year after the sale, redeem such right in equity, by paying to the purchaser the purchase

money and any money paid by him to redeem such mortgage in whole or in part, after entry or notice for the purpose of foreclosure, with interest thereon, the sale and deed thereof shall be void.

SEC. 6. On payment, the purchaser, having his reasonable charges therefor duly tendered to him, shall execute a release to the debtor of all right to such estate acquired by or under such sale.

SEC. 7. The deed of the officer making such sale shall briefly state his office, the names of the parties to the action in which the execution issued, and the court and the term at which the judgment was rendered therein, the consideration paid therefor, a description of the premises conveyed and the right of the debtor to redeem the same; and shall contain a covenant that the officer has observed all the requisitions of the law by virtue of which the deed is made.

SEC. 8. No sale upon execution of any greater interest in any real estate than a term of seven years shall be valid, except against the debtor and his heirs, unless the execution and the return shall be recorded in the registry of deeds in the county in which the estate is situate.

SEC. 9. The proceeds of such sale shall be applied to the satisfaction of the executions issuing in the actions in which such estate was attached, in the order of the attachments, and then to the payment of any other execution in the officer's hands, in the order in which they were received, and the residue shall be paid to the debtor.

SEC. 10. The purchaser shall be liable to the debtor, after redemption, for the rents and profits received therefrom over the expenditures made thereon; but such purchaser may pay or tender to the debtor, either before or after action brought, the amount for which he deems himself justly accountable as aforesaid, and costs; and unless the debtor shall recover a greater amount, the defendant shall recover his costs.

SEC. 11. The right of any debtor to receive a conveyance of real estate on performance of any contract, may be taken on execution and sold at auction, and the purchaser shall have a remedy by bill in equity to compel a conveyance.

SEC. 12. The right of any debtor to redeem any right or interest in real estate, may be taken in execution and sold at auction.

SEC. 13. Terms for years may be attached on mesne process, and taken and sold on execution, and in all cases where real estate taken in execution is required to be sold at auction, the proceedings relative to such sale, and the rights of parties thereupon, shall be the same as in cases of the sale of equities in redemption.

SEC. 14. The person having the estate or right of the creditor, purchaser or debtor in any real estate taken in execution, shall be deemed to be, and shall have the rights, privileges and

remedies, in all cases, of the creditor, purchaser or debtor as to all persons having notice of his right; and no act done by or to the original creditor, purchaser or debtor, shall thenceforth be of any validity.

CHAPTER 210.

OF LEVIES AND INJUNCTIONS.

IDENTICAL WITH

Chapter 197 of the Revised Statutes.

SECTION

1. Lien not lost by injunction, when.
2. Proceedings in case of injunction.

SECTION

3. Proceedings, if notice of sale given.

SECTION 1. Whenever the levy of any execution shall be stayed by injunction, the lien and interest of the attaching creditor, existing at the time of such injunction, shall continue and be in full force until the expiration of thirty days after the dissolution of such injunction.

SEC. 2. The proceedings on such levy shall be suspended during the continuance of such injunction, and may be resumed and completed at any time within thirty days after the dissolution thereof, notwithstanding the return day of such execution may have passed; and such execution shall for this purpose remain in full force until such proceedings shall have been completed.

SEC. 3. If the notice of the sale of any property, real or personal, shall have been given on any such execution at the time when the levy thereof shall be stayed by such injunction, notice of the sale of such property on such execution may be given after the dissolution of such injunction, in the same way and manner as is prescribed by law for the sale of personal property on executions, and such sale shall be valid.

CHAPTER 211. .

OF EXECUTIONS AGAINST TOWNS.

IDENTICAL WITH

Chapter 198 of the Revised Statutes. .

SECTION

1. Estate of towns, how taken.
2. Copy of execution to be left with selectmen.
3. Selectmen to pay or assess tax.

SECTION

4. Extent may issue against collector.
5. Property of selectmen and others liable, when.
6. Contribution, how regulated.

SECTION 1. The goods and estate of towns may be taken on execution, and appraised or sold in the same manner as the property of other corporations.

SEC. 2. If no such goods or estate are found, an attested copy of the execution shall be left with one of the selectmen.

SEC. 3. The selectmen, upon such copy being so left, shall pay such execution, or shall assess the inhabitants of such town in a sum sufficient to satisfy the same, and within thirty days thereafter, collect the sum so assessed by a collector by them appointed, and with the money so collected satisfy such execution.

SEC. 4. If the collector to whom any warrant or list of taxes shall be committed under this act, shall neglect to collect and pay over such taxes to the selectmen within thirty days after he shall receive the same, the selectmen may issue an extent against him.

SEC. 5. If such execution shall not be satisfied within sixty days after a copy of such execution is left as aforesaid, such execution may be levied upon the goods and estates of the selectmen, and, if they are insufficient, upon the property of any inhabitant of such town or owner of property situate therein.

SEC. 6. Every person upon whose property an execution against any town has been levied, may, in an action of assumpsit for money paid, recover of such town the sum so levied, and damages and double costs.

• CHAPTER 212.

OF IMPRISONMENT AND PRISON BONDS.

COMPILED FROM

.Chapter 199 of the Revised Statutes.

" 237, Laws of 1845.

SECTION •

1. Any prisoner on execution may give bonds.
2. Form of bond and condition.
3. Sureties, how to be approved.
4. Bond delivered to creditor, when.
5. Surrender by prisoner, how made.
6. Notice, if two jails, how given.
7. Sureties may surrender, when.

SECTION

8. Prisoner surrendered cannot again give bond.
9. Judgment and execution on bond.
10. Debtor discharged, not liable to arrest for one year on the same.
11. No person detained for prison charges on civil process.
12. When a person is committed to jail, bond to be given, &c.

SECTION 1. Any person arrested or imprisoned on execution, or detained in prison for want of bail after final judgment against him, or who shall be committed to prison by his bail or by the court upon a surrender by his bail after such judgment, shall be discharged upon giving bond as hereinafter provided.

SEC. 2. Such bond shall be given to the creditor, with two sufficient sureties, residents of the State, to be bound jointly and severally in at least double the sum for which such person is arrested or imprisoned, with a condition in substance as follows:—
“The condition of the above obligation is, that if the said now a prisoner at the suit of said shall, within one year from the date hereof, apply to the proper authority and be admitted to take, and shall actually take the oath or affirmation prescribed by law for the relief of poor debtors, or in default thereof shall surrender himself to prison as prescribed by law, then this obligation to be void.” The blanks in the condition shall be filled as the case may require.

SEC. 3. The sureties shall be deemed sufficient when they are approved in writing on the back of such bond, either by the creditor, his agent or attorney in the action, or by two disinterested justices of the quorum of the county in which such person is arrested or imprisoned.

SEC. 4. Such bond shall be delivered by the officer to the creditor, upon request and upon giving a proper receipt therefor.

SEC. 5. If the debtor giving such bond shall not, within one year from the date thereof, take the oath or affirmation prescribed by law for the relief of poor debtors, or be otherwise discharged, he shall on the day next after the expiration of said year, unless

the same shall be Sunday, and in that case on the Monday following, surrender himself up to the keeper of the jail in the county where he was originally arrested or committed, and remain at said jail from twelve o'clock at noon till three o'clock in the afternoon of said day, and his sureties on such bond shall be thereby discharged.

SEC. 6. If there is more than one jail in the county, the person making the surrender shall cause notice in writing to be given to the creditor or his attorney, or left at the usual place of abode of one of them, if either lives in the State, stating at which of said jails the surrender will be made, at least ten days prior thereto.

SEC. 7. The sureties in any such bond may take the body of the principal, and surrender him at such jail in the manner and for the purpose aforesaid.

SEC. 8. In the case of such surrender, the creditor may cause such debtor to be arrested on his execution and committed to jail, where he shall remain in close confinement, and shall not be again discharged on giving bond as aforesaid.

SEC. 9. On condition broken, the creditor shall recover by action on such bond, his just debt or damages and costs thereof, with ten per cent. interest from the time of the arrest, with costs, and the clerk shall certify on the execution therefor that it was issued on such bond; and any person arrested or committed in any suit thereon shall be kept in close jail, and shall not be discharged on giving such bond.

SEC. 10. If any debtor shall be discharged from jail, by reason of the neglect of the creditor to levy his execution upon his body within thirty days after judgment rendered, he shall not be liable to arrest in any action of debt upon such judgment at any time within one year afterwards.

SEC. 11. No person committed on civil process shall be detained in prison for the non-payment of prison charges; but such charges shall be a debt against the prisoner, if he is of ability to pay the same.

SEC. 12. The person at whose suit any person is committed to jail, shall give bond to the jailer, with satisfactory security, or such as may be approved by a justice, to pay the prison charges in case of the prisoner's inability; otherwise such prisoner shall be discharged; except in actions of trespass, actions of trespass on the case for torts, and prosecutions for bastardy by the mother of bastard children, in which cases no such bonds shall be required, but prisoners committed in the course thereof shall be detained in prison for the non-payment of prison charges, until released by order of the court of common pleas for the county where the prosecution takes place. (*Laws of 1845, chap. 237.*)

CHAPTER 213.

OF THE RELIEF OF POOR DEBTORS.

IDENTICAL WITH

Chapter 200 of the Revised Statutes.

SECTION

1. Person imprisoned may petition.
2. Order of notice, how made.
3. Justices may adjourn, when.
4. Petitioner examined on oath.
5. Property to be appraised and assigned, in what cases.
6. Oath to be taken, form of.
7. Form of oath may be changed.
8. Certificate of oath, form of.

SECTION

9. Person of debtor discharged.
10. In wilful trespass or neglect, no bond to be taken.
11. In such case not discharged, unless.
12. Persons disqualified to testify may take oath.
13. Costs taxed for creditor, when.
14. No new application till prior costs paid.

SECTION 1. Any person arrested or committed to jail on any execution, or who has given bond as provided by law, may immediately apply to any two justices of the peace and of the quorum, by petition setting forth that he had not, at the time of his arrest or at any time afterwards, estate to the value of twenty dollars, excepting goods and chattels by law exempted from attachment, and praying to be admitted to take the oath hereinafter prescribed.

SEC. 2. Either of the justices may make an order on such application, appointing a time and place for hearing and considering such application; and the debtor shall cause the creditor or his attorney to be served with a copy of such application and order of notice thereon, at least fifteen days before the day of hearing.

SEC. 3. Said justices, or either of them, on receiving satisfactory evidence that due notice has been given to the creditor, may adjourn the hearing on such petition, not exceeding ten days.

SEC. 4. The person so applying may be examined under oath, on motion of the creditor or his attorney, and any other evidence produced by either party shall be heard; and if it shall appear that such person has been guilty of any fraud, deceit or falsehood in relation to his property, his application shall be refused.

SEC. 5. If it shall appear or shall be alleged that the person applying had any property at the time of his commitment, over and above the property exempted by law, his interest in the same may be by him assigned to the creditor, at the discretion and appraisal of the justices, in case the parties do not agree; and on his refusal or neglect forthwith to make such assignment, his application shall be refused.

SEC. 6. If no sufficient objection is made, said justices shall administer to the debtor the following oath :

“ You, A. B., do solemnly swear (or affirm) that you have not any estate, real or personal, or any right thereto, to the amount of twenty dollars, except goods and chattels by law exempted from attachment, and that you have not at any time, directly or indirectly, sold, leased or otherwise conveyed any part of your property, or intrusted any person therewith, with any intent or design to secure the same, or to receive or expect any profit or advantage therefrom; nor have caused or suffered any thing else whatever to be done whereby any of your creditors may be defrauded. So help you God,” (or, “ This you do under the pains and penalties of perjury.”)

SEC. 7. If the creditor or his attorney shall not accept any property of the debtor, an assignment whereof as aforesaid has been tendered, the form of the oath shall be altered accordingly, so as to except such property, which shall belong to such debtor.

SEC. 8. The said justices shall make a certificate of such oath when administered, substantially in the form following:

THE STATE OF NEW HAMPSHIRE.

R. ss. On the day of A. D. at
in said county, A. B., of heretofore a prisoner at the suit
of C. D. of took the oath prescribed by law for the relief
of poor debtors, the said C. D. (or the attorney of the said C.
D.) having been duly notified, did (or did not) attend; before

} Justices of the peace
 { and of the quorum.

SEC. 9. The person of the debtor shall be thereafter forever discharged from arrest or imprisonment on the debt or demand on which he was so arrested or imprisoned; but his estate shall always remain liable therefor, and a new execution may at any time issue against such estate.

SEC. 10. If the cause of action in any action of trespass, or trespass on the case, has arisen from the wilful and malicious act or neglect of the defendant, the court or justices before whom the action is tried, shall cause a certificate thereof to be made on the back of the execution issued in such action, and the defendant shall not be discharged on giving bond as provided in the preceding chapter.

Sec. 11. In such case the defendant shall not be entitled, as a matter of right, to be discharged upon taking the poor debtor's oath; but if the justices to whom application is made, shall think proper, he may be discharged upon such terms and conditions as they may impose.

Sec. 12. Any person disqualified to testify as a witness, may be admitted to take the oath prescribed by law.

SEC. 13. If the application of any person to take such oath

shall not prevail, costs shall be taxed for the creditor in the same manner as in actions in the court of common pleas, and judgment rendered and execution issued by the justices therefor.

SEC. 14. No application of any person to take the poor debtor's oath shall be allowed, until the costs which have been adjudged against him on all former applications have been paid.

CHAPTER 214.

OF LIABILITY OF BAIL.

IDENTICAL WITH

Chapter 201 of the Revised Statutes.

SECTION

1. Bail, how must be notified.
2. " may produce body of debtor.
3. " not charged unless notice returned as duly given.
4. " discharged by committing debtor to jail, when.
5. Scire facias issued, in what case.

SECTION

6. Bail may surrender on scire facias.
7. Costs to be paid by bail, how.
8. Scire facias must be served on bail within one year.
9. Bail, how discharged before justice.
10. Copy of process left with jailer.

SECTION 1. Creditors intending to charge the bail on the execution, shall endorse thereon the names and places of abode of the bail; and the officer, at least fifteen days before the return day thereof, shall deliver to each of the persons intended to be charged as bail, or leave at his usual place of abode a notice in writing stating that such execution is in his hands, the amount thereof and when it is returnable, and keep such execution until the return day thereof.

SEC. 2. If the bail so notified shall, at any time before the return day, produce the body of the debtor to the officer, so that he may arrest him, and pay the reasonable charges for such notice, they shall be forever discharged.

SEC. 3. The bail shall not be charged upon any return of non est inventus, unless the officer shall certify in such return that notice was given as aforesaid to the bail.

SEC. 4. Bail shall be discharged at any time before judgment against them, by committing the principal to the common jail of the county in which the arrest was made, or in which the action is pending, and giving to the creditor or his attorney in the action, within fifteen days after, notice in writing of the time when and the place where the principal is so committed, and causing the board of the principal to be paid or secured to the jailer until the expiration of seven days after notice given to the creditor or his

attorney, unless he shall be sooner discharged by giving bond according to law.

SEC. 5. If the officer shall make return on the execution against the principal that he has made diligent search and has not been able to find the principal in his precinct, and that he gave notice to the bail as herein prescribed, the creditor may have a writ of scire facias against the bail, and judgment and execution against him for the amount of such execution and interest and for costs.

SEC. 6. If the bail shall, at any time before judgment against them, bring into the court the body of the principal, and move to be discharged, they shall be discharged, and the court shall order the keeper of the prison to receive him into custody; and he shall be holden in the same manner as if he had been committed on the writ for want of bail.

SEC. 7. The bail shall not be discharged by committing his principal and notice to the creditor as aforesaid, after notice given to the bail as aforesaid, without paying to the officer, creditor or his attorney, the cost of such notice, and the cost which has arisen in any action which has been commenced against such bail.

SEC. 8. No scire facias against bail shall be supported unless the same shall be served on the bail within one year after the final judgment against the principal.

SEC. 9. The bail, in actions before justices, may commit the principal to jail at any time before judgment against them, and shall be discharged upon producing to the justice a certificate thereof from the jailer, in the same manner and upon payment of the like cost as if he were surrendered in court.

SEC. 10. The bail, on committing their principal to jail, shall in all cases leave with the jailer an attested copy of the writ or process on which the arrest was made, and of the officer's return thereon, with a certificate of such commitment; and the jailer shall detain such principal in his custody in the same manner as if he were committed for want of bail.

TITLE XXIV.

OF PROCEEDINGS IN SPECIAL CASES.

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- CHAPTER 215. Of habeas corpus.
 CHAPTER 216. Of forfeitures of grants.
 CHAPTER 217. Of replevin.
 CHAPTER 218. Of the action of dower.
 CHAPTER 219. Of the partition of real estate.
 CHAPTER 220. Of trespasses and waste.
 CHAPTER 221. Of the trustee process.
 CHAPTER 222. Of the action against tenants.
 CHAPTER 223. Of references and confession of debt.
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CHAPTER 215.

OF HABEAS CORPUS.

IDENTICAL WITH

Chapter 202 of the Revised Statutes.

SECTION

1. Who entitled to the writ of right.
2. Who are not entitled of right.
3. Application, to whom made.
4. " by whom and how made.
5. Writ granted or refused on inspection.
6. Bail may be taken, when.
7. Writ, when granted without copy.
8. Form of writ of habeas corpus.
9. Seal, teste, &c., of writ.
10. Writ issued by court, returnable.
11. " " " justice, returnable.
12. Remedy to be as easy and expeditious as possible.
13. Security for costs required, when.
14. Service of writ, how made.
15. Return of service, how made.
16. Body of prisoner to be brought.
17. Within what time to be done.
18. Hearing may be adjourned, how.

SECTION

19. If court not in session, return how made.
20. Party required to recognize.
21. Court to hear without delay.
22. Proceedings on such hearing.
23. May admit applicant to bail in criminal cases, when.
24. May admit applicant to bail in civil cases, when.
25. Officer neglecting to give copy of process, penalty.
26. If person on whom writ served refuses to appear, penalty.
27. False return, penalty for.
28. Disobedience is contempt.
29. Person discharged not to be again imprisoned for same cause.
30. Limitations of suits, and prosecutions.
31. Right of action not lost by death.

SECTION 1. Any person imprisoned in any common jail or otherwise restrained of his personal liberty, by any officer or other person, except in the cases mentioned in the following section, shall be entitled of right to a writ of habeas corpus, according to the provisions of this chapter.

SEC. 2. The following persons shall not of right be entitled to such writ:

First; persons imprisoned upon legal process, civil or criminal, in which the cause of such imprisonment is distinctly expressed.

Second; persons committed by any court or judge of the United States, and where no judge of any court of this State has authority to discharge or to commit to bail.

SEC. 3. Application for such writ may be made to the superior court of judicature, in term time, in any county, or to any justice thereof at any time, by any person so imprisoned or restrained of his liberty, or by some person in his behalf.

SEC. 4. The application shall be in writing signed by the applicant, and under oath. It shall state the place where the person is supposed to be imprisoned or restrained of his liberty, and by whom, and a copy of the warrant or precept, if any, under which he is confined, shall be annexed to such application.

SEC. 5. If, on inspection of the copy of such precept, it shall appear to such court or justice that such person is lawfully imprisoned or restrained of his liberty by virtue thereof, a writ of habeas corpus shall not be granted.

SEC. 6. If, by the copy of such precept, it shall appear that such person is imprisoned on meane process for want of bail, or on criminal process before a magistrate for want of recognizance, and that excessive bail or recognizance was required, such court or justice shall decide what bail is reasonable, and he shall, on giving such bail, be discharged.

SEC. 7. If any officer having the custody of any such person by virtue of any precept, shall refuse or delay unnecessarily to deliver to such applicant an attested copy of such precept, on demand, such court or justice, on proof of such demand and refusal or unnecessary delay, to be proved by the affidavit of the applicant or other credible witness, shall forthwith issue the writ of habeas corpus as prayed for.

SEC. 8. The form of the writ may be substantially as follows:

THE STATE OF NEW HAMPSHIRE.

R. ss.

L. S.

To

GREETING.

We command you that the body of _____ in our prison under your custody detained, (or by you imprisoned and restrained of his liberty, as the case may be,) as is said, together with the day

and cause of the taking and detaining of the said by what-
 ever name the said may be called or charged, you have
 before our justices of our superior court of judicature holden at
 within and for our county of immediately after the
 receipt of this writ, to undergo and receive what our said justices
 shall then and there consider of him in this behalf; and have you
 then there this writ.

Witness at this day of in the
 year of our Lord

All necessary alterations, in the form thereof, shall be made to
 adapt the same to the circumstances of the application.

SEC. 9. Said writ, when awarded by the court, shall be under
 the seal of the court, tested by the chief justice or first justice who
 is not a party, and signed by the clerk; when awarded by any
 justice of said court, it shall be under his hand and seal.

SEC. 10. Said writ, when issued by the court, may be made
 returnable immediately to the court or any justice thereof in any
 county, or at any time and place certain, or before any justice of
 said court at any time and place therein directed.

SEC. 11. If the writ is issued by any justice of said court, it
 may be made returnable before himself or any other justice of said
 court, immediately at a place therein directed, or at a time and
 place certain, or before said court as may be therein directed.

SEC. 12. In all cases such writ shall be made returnable in such
 a mode as to secure to the applicant the enjoyment of the same in
 the most free, easy, cheap and expeditious manner.

SEC. 13. The court or justice awarding such writ, may, in his
 discretion, before the same is awarded, require that the applicant
 shall file a sufficient bond or give satisfactory security to the person
 to whom such writ is directed, for the payment of all charges
 incurred by reason of such process, and that the person imprisoned
 shall not escape by the way; and may also order that the expenses
 of bringing the person imprisoned or restrained of his liberty, be-
 fore such court or justice, (which sum shall be fixed by such court
 or justice and endorsed on such writ,) shall be paid or tendered at
 the time of the service of such writ.

SEC. 14. The service of such writ may be made by any per-
 son, and shall be by delivering the original to the person to whom
 it is directed, or if the person for whom application is made, is
 in prison, it may be left with the jailer, or deputy keeper at such
 prison, and paying or tendering the sum endorsed on said writ,
 if any.

SEC. 15. The person making such service, shall keep a copy of
 such writ, and shall make his return or affidavit of service and of
 such payment or tender of fees thereon, as in other cases, and
 deliver the same to the court or justice before whom the same is
 returnable, on or before the time of hearing therein designated.

SEC. 16. The person to whom such writ is directed, shall re-

ceive the same when offered, and upon payment or tender of the sum endorsed on said writ, if any, shall yield due obedience to the command thereof; and shall make due return thereof to the court or justice, and at the time and place therein mentioned; and shall state every cause of taking and detaining the person imprisoned or restrained, all which shall be made under oath; and shall also have present the body of such person, unless imprisoned or restrained for some one or more of the causes specified in the second section of this chapter.

SEC. 17. If no time is specified for such return, the same writ being returnable immediately, the return shall be made within three days after such service, unless the prisoner is to be brought more than twenty miles, in which case the return shall be made within so many days more as will be equal to one day for every ten miles of such further distance.

SEC. 18. Any justice of said court, when any such writ is returned to him, may certify and return the same, with all things pertaining thereto, to said court, if then sitting; and at any time before the prisoner shall have been discharged, bailed or remanded, any such justice may adjourn further proceedings on such writ to said court, if then in session, or to the next term thereof, if to commence within three months next afterwards. The said court, in any such case, shall proceed thereon as if such writ had been, by the tenor thereof, returnable thereto.

SEC. 19. If said court shall not be in session when any such writ is made returnable, the same shall be returned to any justice of said court as if the same was issued by and returnable to him.

SEC. 20. Such court or justice may require and take security by recognizance, with sufficient sureties if necessary, for the appearance of any party at the time and place of hearing on any such writ, and to abide the order of court thereon; and may make all decrees necessary to insure the attainment of the object of such writ, and enforce the same upon the principles of equity.

SEC. 21. When any person shall be brought before any court or justice thereof as aforesaid, such court or justice shall, within three days after, proceed and examine the causes of detention.

SEC. 22. If the person imprisoned or restrained, shall be so imprisoned or restrained without sufficient cause or due order of law, he shall be discharged; but if otherwise, he shall be remanded.

SEC. 23. If such person is committed for any bailable offence, such court or justice may bail him by ordering him to recognize, with sufficient surety or sureties, in a reasonable sum, for his appearance at the court having cognizance of such offence, and shall certify their recognizance into such court.

SEC. 24. If such person is committed on mesne process in any civil action for want of bail, and it shall appear that the bail required was excessive, such court or justice may discharge him on reasonable bail being given.

SEC. 25. If any officer having the custody of any prisoner, on payment or tender of his fees therefor, shall not, within six hours after demand made, deliver to such prisoner a true copy of the warrant or process by which he is held in custody, he shall forfeit to the party aggrieved the sum of two hundred dollars.

SEC. 26. If any person to whom any writ of habeas corpus is directed, shall refuse to receive the same, or shall conceal himself or avoid so that such writ cannot be delivered to him, or after the receipt thereof shall refuse or neglect, after the payment or tender of expenses when required as aforesaid, to yield obedience thereto, unless prevented by the sickness of the person detained or other necessity, he shall forfeit for every such offence to the person aggrieved, the sum of five hundred dollars.

SEC. 27. If any person shall make any false return to any such writ, he shall be also liable to the action of the party aggrieved, and also to any action at common law for false imprisonment or unlawful restraint.

SEC. 28. The court or justice thereof awarding any such writ, or to whom it is returned, may punish every disobedience to the order thereof as for a contempt, and may compel obedience thereto by process of attachment.

SEC. 29. No person enlarged by habeas corpus, shall again be imprisoned or restrained of his liberty for the same cause, unless he shall be indicted therefor or convicted thereof, or shall neglect to appear according to his recognizance, or to find bail when required thereto; and if any officer or other person shall wilfully again imprison or restrain the person so discharged, except as aforesaid, he shall forfeit to the party aggrieved eight hundred dollars.

SEC. 30. All actions and prosecutions for any offence against the provisions of this chapter, shall be commenced within two years next after the commission of such offence; saving to all persons in prison the right to sue or prosecute at any time within two years after such impediment is removed.

SEC. 31. The right of action in any such case, excepting actions of trespass for false imprisonment, shall not cease by the death of either party, but shall survive for and against the personal representatives of the deceased.

CHAPTER 216.
OF THE FORFEITURE OF GRANTS.

IDENTICAL WITH
Chapter 203 of the Revised Statutes.

SECTION

1. "*Grant*," construction of word.
2. "*Grantee*," " " "
3. Grants, how forfeited.
4. Effect of forfeiture.
5. Information or complaint, how filed.
6. Proceedings, where to be had.
7. Service in case of lands, how made.
8. " in other cases, how made.
9. Several persons may join.
10. Grantee, when defaulted.
11. " " heard in chancery.

SECTION

12. Judgment may be conditional.
13. " how rendered.
14. Copy of case to be returned to secretary's office.
15. Improvements, when allowed for.
16. Value thereof, how determined.
17. When lands re-granted, conditions.
18. If conditions not fulfilled, remedy.
19. Possession, how recovered.
20. Complainant liable for costs.

SECTION 1. The word "*grant*," as used in this chapter, shall be construed to mean all grants or charters of lands in this State, made by the supreme executive or legislative power thereof, and all acts of incorporation and laws giving to individuals powers or rights not common to all citizens.

SEC. 2. The word "*grantee*" shall be construed to mean the person, persons or corporation to whom such grant is made, their representatives, successors and assigns, and all persons interested therein.

SEC. 3. Any grant may be adjudged forfeited for the non-performance of any condition annexed to or contained in such grant, whether such condition be expressed or from the nature of the case clearly implied, in the manner hereinafter provided.

SEC. 4. Whenever any grant shall be adjudged forfeited, the grantee shall be immediately divested of all rights, powers and privileges derived by virtue of such grant; and the grant shall be thenceforth deemed to be vacated, and shall revert to the State.

SEC. 5. The ordinary mode of process shall be by information filed by the attorney general, or other person duly authorized in behalf of the State, setting forth that such grant is forfeited, or if the claim is by an individual for the forfeiture of a grant of land, by a complaint by such individual, setting forth such forfeiture and his claim thereto. In the latter case, before any order is issued, the complainant shall file with the clerk a bond running to the State, in a reasonable sum and with sufficient sureties, conditioned to pay all costs which may be recovered against him on such complaint.

SEC. 6. Such information or complaint shall be directed to the justices of the superior court of judicature for the county in which such land or corporation or any part thereof lies, and may be filed in vacation; and the clerk shall make an order thereon, directing such grantee to appear at the next term of said court in said county, then and there to show cause why such forfeiture should not be decreed.

SEC. 7. Such process shall be served upon the grantee, in the case of forfeiture of lands, by posting up a copy of such complaint or information and order of court thereon, in some public place in the shire town of the county in which such land lies, for the space of thirty days prior to the term of the court at which the same is to be heard and tried, and also by publishing the same in some newspaper printed in such county, if any there be, otherwise in some adjacent county, and also in the New Hampshire Patriot and State Gazette, three weeks successively, the last publication to be at least thirty days prior to said term.

SEC. 8. In all other cases service shall be made by giving an attested copy of such information and order of court thereon, to such grantee or the clerk of such corporation, or one of the principal proprietors thereof, or by leaving the same at his usual place of abode, thirty days at least prior to said term, or by such other notice as the court, on consideration, shall order.

SEC. 9. If several persons in any case claim under the same grant, they may appear and plead severally.

SEC. 10. If the grantee shall not appear, after service duly made, the court shall hear the evidence and try the truth of the matters alleged in the information or complaint, and may, for good cause shown, adjudge the grant to be forfeited.

SEC. 11. If the verdict of the jury or the decision of the court, in any such case, is that such grant is forfeited or that the conditions of the grant have not been performed, the grantee may show his reasons in writing to the court why the grant in equity and good conscience should not be forfeited, although a forfeiture has been legally incurred, and the court shall judge the same according to equity and good conscience.

SEC. 12. If the court, upon due consideration, shall deem such reasons to be sufficient, the same shall be briefly recited in the judgment, which shall be that the grant, in equity, ought not to be forfeited and is not forfeited, and that the grantee pay the costs of suit.

SEC. 13. If no reasons are shown, or if the reasons shown are insufficient, the judgment shall be that the grant is forfeited, and the reasons shown, if any, and their insufficiency shall be briefly recited in said judgment.

SEC. 14. When final judgment has been rendered that a grant is forfeited, the clerk of the court in which such judgment is rendered shall, within thirty days thereafter, transmit to the secretary of state a copy of all the papers in such case, including the judg-

ment, certified by him and under the seal of the court, which shall be kept by the secretary and laid before the legislature at the next session.

SEC. 15. At and upon the rendition of any judgment of forfeiture of any grant of land as aforesaid, such grantee may, by petition or motion in writing, set forth the facts respecting his performance of the condition of such grant and the improvements made by him thereon, and may pray the court to be heard thereon.

SEC. 16. The court shall immediately proceed to hear the same, either by a jury or before themselves, at the option of such party; and upon the value of such improvements and the value of the land, at the time of the entry of such grantee, being found, the court as a court of equity shall determine and decree that the State shall pay to such grantee the value of such improvements, or so much thereof as they shall think reasonable, before having possession of such lands, or that the grantee shall pay to the State the value of the lands before such improvements were made, and upon such payment to have all the title of the State thereto, or it may be conditional, leaving it to the option of the grantee to pay or receive said sums as he may think expedient; which decree shall prescribe the time and mode of such payment, which shall be at the treasury of the State, and such notices and other requirements as equity may demand.

SEC. 17. Whenever any grant of land has been declared forfeited, and the same has been re-granted, such second or other grantee may appear at and upon the rendition of judgment of forfeiture, in the manner provided in the preceding section, and a hearing shall be had and a conditional judgment rendered as is therein provided, and such judgment returned to the secretary of state as in other cases.

SEC. 18. If such grantee shall not comply with and fulfil said decree or judgment of court, in the mode and within the time therein prescribed, the attorney general or other person appointed may bring a writ of scire facias in the same court, and said court sitting in equity, upon a hearing of said case, may decree such grant to be forfeited.

SEC. 19. Whenever any grant of lands shall be declared forfeited, and the grantee shall continue to hold possession thereof, an action may be brought by the State to recover such possession, unless the same has been re-granted so that the State has no present title thereto.

SEC. 20. If any person, not employed by and in behalf of the State, shall enter any complaint or prosecute any suit as aforesaid, and shall not support his title, costs shall be taxed against him for the defendant.

CHAPTER 217.

OF REPLEVIN.

IDENTICAL WITH

Chapter 204 of the Revised Statutes.

SECTION

1. Beasts impounded, how replevied.
2. Property claimed by third person.
3. " exempt from attachment.

SECTION

4. Suits, where to be brought.
5. Plaintiff to give bond, how.
6. Officer may seize property, how.

SECTION 1. Any person whose beasts are impounded, may at any time, while they remain in the pound, maintain replevin therefor against the impounder thereof.

SEC. 2. When any goods or chattels, attached on any writ of mesne process, are claimed by any other person, he may maintain replevin therefor.

SEC. 3. If any goods or chattels, exempted by law from attachment, are attached upon mesne process, and before they are taken on execution, the owner or person out of whose possession they were taken, may maintain replevin therefor.

SEC. 4. If the value of property replevied does not exceed thirteen dollars and thirty-three cents, the action shall be brought before a justice; otherwise, in the court of common pleas.

SEC. 5. The plaintiff in the writ, before the service thereof, shall give bond to the sheriff of the county, with sufficient sureties, in a sum not less than double the value of the property replevied, conditioned to prosecute his suit and to pay all such damages and charges as may be awarded against him.

SEC. 6. If any property, attached as aforesaid, is in the possession of any person for keeping or otherwise, the officer having the writ of replevin may demand the same, and on neglect or refusal to deliver such property, may enter any close or building and replevy the same. The delivery to or taking by such officer of any property shall exonerate the person having possession thereof as aforesaid from all liability therefor.

CHAPTER 218.

OF THE ACTION OF DOWER.

IDENTICAL WITH

Chapter 205 of the Revised Statutes.

SECTION

1. Writ of dower, when brought.
2. Demand of dower to be first made.
3. Form of writ of dower.
4. Damages to be rendered, what.

SECTION

5. Form of judgment for dower.
6. Dower, how set out by officer.
7. Rights of widow therein.

SECTION 1. If dower is not assigned to any woman entitled thereto, to her satisfaction, by the heir or tenant of the freehold or by the judge of probate, she may recover the same by action of dower.

SEC. 2. She shall make demand in writing of her dower of the person seized of the freehold, if in this State, otherwise of the tenant in possession; and if such dower is not set out within one month, may sue for and recover the same against such person.

SEC. 3. The writ in actions of dower shall be a summons.

SEC. 4. If the demandant recovers judgment for her dower, she shall also, in the same action, recover her reasonable damages for the detention thereof by the tenant in such action after demand made.

SEC. 5. Judgment shall be rendered for the demandant that she recover "seizin of such part of a certain with the appurtenances, as will produce a yearly income equal to one third part of the yearly income thereof on the day of ."

SEC. 6. The officer to whom such writ of seizin is directed, shall cause such dower to be set off by three discreet and disinterested men of the neighborhood, who shall be appointed and shall proceed in the same manner as is provided in the case of the levy of executions on real estate.

SEC. 7. The rights of every such woman and the mode of setting out her dower, shall be the same as in similar cases before a judge of probate.

CHAPTER 219.

ON PARTITION OF REAL ESTATE.

IDENTICAL WITH

Chapter 206 of the Revised Statutes.

SECTION

1. Partition may be made, when.
2. Petition, if owners known.
3. " " " unknown.
4. Notice, where owners known.
5. " " " unknown.
6. If petitionee is absent, notified.
7. " " " an infant, what.
8. If unknown, agent to be appointed.
9. Questions triable by jury, how.
10. Committee to be appointed, how.
11. Notice to be given by committee.
12. Proceedings, if owner unknown.
13. Partition, how to be made.
14. Report and judgment thereon.

SECTION

15. Costs, how adjusted.
16. If petitioner prevails in part, costs how taxed.
17. If petitioner fails, costs.
18. If petition not entered, costs.
19. Partition not affected by sale, &c.
20. Legal owner to have share set off.
21. If no dispute as to title, petition filed in probate court.
22. Notice, how given in such case.
23. Partition, how made in such case.
24. If costs not paid, how collected.
25. Estate not divisible, how set off.

SECTION 1. One or more persons having or holding real estate with others may have partition thereof in the mode hereinafter provided.

SEC. 2. Application may be made by such person to the superior court of judicature in the county in which such real estate or any part thereof lies, by petition in writing, particularly describing the estate of which partition is desired, the names of all owners or persons interested, if known, and the share of the petitioner therein, and praying for partition thereof.

SEC. 3. If the persons owning or interested in any such real estate with the petitioner are unknown, the estate shall be described in such petition in the same manner as is required by law in the case of taxing unimproved lands of non-residents, specifying the share severally held by each petitioner, and stating the same as held with persons unknown.

SEC. 4. The petitioner shall cause notice to be given to all persons interested in such estate, by causing such petition, with an order of notice thereon, to be duly served on each in the same manner that writs of summons are required to be served.

SEC. 5. If any petitionee is unknown, or if his residence is unknown, or if he resides out of the State, not having had personal notice, the court shall order said petition and order of notice to be published in some newspaper printed in the county, if any there be, otherwise in some adjoining county, three weeks successively,

the last publication to be thirty days at least before the term of the court at which such petition is to be heard.

SEC. 6. If any petitionee is absent from home at the time of the service of such petition, and has not returned and does not appear at the sitting of the court at which such petition is entered or continued, the court may continue such petition and order further notice to be given, if they think proper.

SEC. 7. If any petitionee is an infant or otherwise incapacitated to take care of his estate, the court shall not cause partition to be made until a guardian or agent has been appointed, and such agent may be appointed by the court.

SEC. 8. If any petitionee is unknown, the court may, whenever they think it expedient, appoint an agent to aid and advise in his behalf in making such partition.

SEC. 9. If any of the facts alleged in such petition are denied by the petitionee, the objections shall be made in writing by plea drawn with legal certainty, to which the petitioner may reply or demur, so that the matter in dispute may be reduced to an issue of law or fact, and tried and determined as in civil cases. Every such issue of fact shall be sent to the court of common pleas for trial, unless by agreement of parties it is tried by the court.

SEC. 10. If the issue is determined in favor of the petitioner, or if after due notice the petitionee shall not appear, the court shall render judgment that partition be made, and shall appoint a committee, consisting of three suitable persons, residents of such county, to make partition of such estate and to set off the share of the several persons interested, according to their respective titles, and shall award costs to the petitioner against the petitionee, and issue execution therefor.

SEC. 11. Such committee, before proceeding to make partition, shall cause notice in writing of the time and place appointed for a hearing in relation thereto, signed by their chairman, to be served upon each person interested, or his agent or attorney, or left at his usual place of abode, seven days at least before such day of hearing.

SEC. 12. If any petitionee or his residence is unknown, the committee shall cause such notice to be published in some newspaper published in the same county, if any there be, otherwise in some adjoining county, three weeks successively before said day of hearing.

SEC. 13. Said committee, before such hearing is had, shall be sworn faithfully and impartially to discharge the duties of their commission, and shall proceed to make partition of the estate as is therein directed, by dividing and setting off to each owner his just share thereof, according to his right, by proper metes and bounds, or other distinct description, and shall return to said court a full report of their doings, with a particular description of each portion of the estate so divided, and a certificate of said oath.

SEC. 14. Such partition and report being made and returned

to said court, judgment may be rendered thereon; and the same being recorded in the registry of deeds for the county where the real estate lies, shall be valid and effectual to all intents and purposes.

SEC. 15. The committee shall consider and adjust the costs and charges of making such partition, and apportion the same in such manner as they shall think just and reasonable for or against the parties interested, and report the same to the court, and execution may issue therefor.

SEC. 16. If, on the trial of any issue, it shall be determined that the petitioner has a right or share in the estate described, but less than he claims, the court shall order that partition be made in the manner aforesaid, according to the actual rights of each, but the petitionee shall recover costs.

SEC. 17. If on such trial it shall be determined that the petitioner has no right or share in such estate, the petitionee shall recover costs.

SEC. 18. If the petitioner shall fail to enter or to prosecute his said petition, costs shall be awarded in favor of all the petitionees upon whom service thereof was made, to be recovered as in other cases.

SEC. 19. No partition shall be avoided by any conveyance made by any petitionee, after the entry of the petition therefor, nor by any conveyance, unless duly recorded at the date of such entry, nor by any mortgage, attachment or lien thereon, whenever made, or by the death of either party, but the share of each party named in the petition shall be set off in severalty and be subject to all legal claims thereon, as if such claimant had been a party thereto.

SEC. 20. If, in making any partition, any share shall be set off to any person other than the legal owner thereof, such share shall enure to the benefit of such legal owner, his heirs or assigns, as if the same had been set off to him.

SEC. 21. If there is no dispute about the title, the petition for partition may be directed to and filed with the judge of probate of the county where the real estate or the greater part thereof lies, who shall appoint a time and place of hearing thereon.

SEC. 22. Notice thereof shall be given to all parties interested by giving to each in hand, or leaving at his usual place of abode, a true and attested copy of such petition and order of notice, fifteen days at least before the day of hearing, or by causing the same to be published in some newspaper printed in the vicinity, three weeks successively, the last publication to be at least thirty days before such day of hearing.

SEC. 23. If, on such hearing, no sufficient objection appears, said judge shall cause partition to be made by a committee, who shall be appointed, be sworn, give notice and proceed in making partition; and the court shall appoint guardians or agents for all minors or persons incapacitated, and agents for all persons

unknown or out of the State, interested in such estate, receive and accept the report of such committee, and render judgment and award costs thereon, in the manner hereinbefore prescribed.

SEC. 24. If any party interested, against whom costs are awarded, shall neglect to pay the same, the said judge may issue his warrant of distress therefor.

SEC. 25. When any real estate is so situated that it cannot be divided so as to give to each owner his equal share therein without great prejudice or inconvenience, the same or part thereof may be assigned to one of the petitioners, he paying to the other persons interested who shall have less than their shares, such sum of money as the committee shall award, or giving bond, with sufficient sureties, to pay the same with interest within such time as the court shall order.

CHAPTER 220.

OF TRESPASS AND WASTE.

IDENTICAL WITH

Chapter 207 of the Revised Statutes.

SECTION

1. Trespass on wood lot, penalty.
2. Altering marks on logs, penalty.
3. Leaving gates, &c., open, penalty.
4. Carrying away earth, &c., penalty.
5. Mode of proceeding in such cases.

SECTION

6. Trespases on public lands.
7. Such possession of no avail.
8. Cutting timber trees, &c., penalty.
9. Limitation of prosecutions.

SECTION 1. If any person shall cut, fell, destroy or carry away any tree, wood, timber or underwood whatsoever standing, lying or being on the land of any other person, having no right there, without leave from the owner of the land on which such trees, timber, wood or underwood were, or shall aid therein, he shall forfeit for each trespass, to the person injured, five dollars for every tree or log of one foot over, for every tree or log of greater dimensions, five dollars and three times the value thereof, and three dollars for every tree, log or pole less than one foot in diameter, and for other wood or underwood, treble the value thereof.

SEC. 2. If any person shall cut out or alter the mark of any mill log, or saw or cut into any lumber or any log not his own property, without the leave of the owner, or shall aid therein, he shall be liable for each offence to the same penalty affixed in the preceding section to cutting any tree or log of the same dimensions.

SEC. 3. If any person shall throw down or leave open any bar, gate or fence belonging to or enclosing any land holden in common or belonging to any particular person, or shall aid therein, he shall for every such offence forfeit and pay treble damages to the person injured, and also a sum not exceeding fifteen dollars, according to the aggravation of the offence.

SEC. 4. If any person shall dig up or carry away any stone, ore, gravel, clay or sand, turf or mould belonging [to] the proprietors of any common lands, or to any particular person, or shall aid therein, he shall for every such offence forfeit the same sum as is prescribed in the preceding section.

SEC. 5. In any case which may arise under the preceding section, the plaintiff may proceed as at common law, or the plaintiff, his agent or attorney, may make oath that certain acts set forth in the declaration have been committed, and that he suspects that the defendant committed such acts, and the court, upon such and other evidence to be offered by the plaintiff, may award him damages and costs as aforesaid, unless the defendant shall acquit himself upon oath, to be administered by the court, in which case he shall recover of the plaintiff double costs.

SEC. 6. If any person, without leave of the State, shall enter into or take possession of any waste lands unappropriated and belonging to this State, and shall continue in possession thereof without color of right for the space of three months, he shall forfeit for such offence one hundred dollars, to be recovered by indictment, one half to the use of the State and the other half to the use of the complainant.

SEC. 7. No possession obtained or held as aforesaid shall be of any avail in law in favor of such possessor.

SEC. 8. If any person shall wilfully cut, fell, destroy, injure or carry away any pine or other timber trees standing or growing on any tract of land within this State, without leave of the owner thereof, or shall be accessory thereto, he shall be liable to the person injured, in a sum equal to five times the value of all the trees so cut, felled, destroyed, injured or carried away.

SEC. 9. No prosecution for any trespass under this chapter shall be sustained, unless commenced within two years from the commission thereof.

CHAPTER 221.

OF FOREIGN ATTACHMENT OR THE TRUSTEE PROCESS.

IDENTICAL WITH

Chapter 208 of the Revised Statutes.

SECTION

1. Trustee process, when brought.
2. " " how brought.
3. Service of trustee writs.
4. New trustees inserted before service on defendant.
5. Trustee, when defaulted.
6. Continuance, when allowed.
7. Liability of trustee, how tried.
8. Trustee, when liable, and how.
9. Not liable for earnings of wife.
10. Liability for debt not yet due.
11. " " goods in his hands.
12. " " " contracted.
13. Creditor to be agent to receive.
14. Liability for neglect to deliver.
15. " " note, order, &c.
16. " " property under lien.
17. " " refusal to deliver.
18. " on negotiable note.
19. " how determined.
20. Debtor refusing to appear, penalty.
21. Answer not evidence on indictment, except for perjury.

SECTION

22. If property claimed by another.
23. Corporation liable as trustee.
24. If trustee dies before disclosure.
25. Commissioner appointed, when.
26. If trustee about to leave the State, disclosure may be taken.
27. Disclosure taken in vacation, how.
28. Trial by jury allowed, how.
29. Verdict of jury, judgment and costs.
30. Judgment against trustee, what.
31. If defendant has had no notice.
32. If collusion between the parties.
33. If trustee is fraudulent, costs.
34. Holding property fraudulently, costs allowed, how.
35. If delaying, creditor to pay costs.
36. Answers of trustee to be several.
37. Executions, how to be issued.
38. Judgment against trustee, a bar.
39. Trustee suits before a justice.
40. Process, how to be directed.
41. Plaintiff to file bond, when.
42. Fees of trustee in such case.

SECTION 1. All personal actions may be commenced by the process of foreign attachment, or trustee process, in the manner hereinafter provided, except actions of replevin, actions on the case for malicious prosecution, or for slander or libel, and actions of trespass for assault and battery and false imprisonment.

SEC. 2. All such actions shall be brought in the same county in which they would have been brought, if no trustee were summoned therein, except as is hereinafter provided.

SEC. 3. The trustee writ shall be an attachment and summons, and shall be served upon the trustee and upon the principal defendant in the same manner as writs of summons, and the property of the principal defendant may be attached thereon.

SEC. 4. The plaintiff may insert the names of as many persons as trustees as he may deem necessary, at any time before the process is served upon the principal defendant, but not after.

SEC. 5. If such trustee do not appear at the term of the court

to which such process duly served on him, is returnable, or if continued, at the term to which it shall be so continued, his default shall be recorded, and the charge of his having in his possession money, goods, chattels, rights or credits of the principal defendant to the amount alleged in such process, shall be deemed to be true, and judgment shall be rendered and execution issue against the trustee, his proper goods and estate, for such amount as the plaintiff shall recover against the principal defendant in such process, but not exceeding the amount so alleged in such process as aforesaid.

SEC. 6. If any trustee shall not be able to attend in person, at the term of the court to which said process is returnable or may be continued, or shall have other good and sufficient cause, a continuance may be granted upon such terms as the court may order.

SEC. 7. Every person summoned as trustee as aforesaid may be put to answer interrogatories as to his liability as such trustee, which interrogatories and answers shall be in writing, and subscribed and sworn to in open court, or before some justice of the peace, if the parties agree; or the question of his liability may be tried by the jury, as the plaintiff may elect.

SEC. 8. Every person summoned as trustee as aforesaid, having in his possession any money, goods, chattels, rights or credits of the principal defendant at the time of the service of such writ upon him, or at any time after such service and before his disclosure, shall be adjudged a trustee therefor.

SEC. 9. No person summoned as trustee shall be charged as such on account of the personal services or earnings of the wife of the debtor at any time, or on account of any labor performed by the debtor or any of his family after the service of the process, or within fifteen days prior to such service.

SEC. 10. When the trustee is indebted to the principal defendant, and the time of payment has not expired, the court may suspend issuing execution against such trustee as justice may require.

SEC. 11. If the trustee has any goods or chattels of the principal defendant in his possession, not subject to any lien, judgment shall be rendered and execution issue against the trustee therefor, or for so much thereof as may be necessary to satisfy such execution.

SEC. 12. If the trustee is under contract for the delivery of any specific article or articles to the principal defendant, or payment in any articles, judgment shall be rendered and execution issued against the trustee for such articles, or so much thereof as may be necessary to satisfy such execution, which shall be paid and delivered to the creditor according to such contract.

SEC. 13. The creditor shall be the agent of the principal defendant for the purpose of receiving the goods, chattels or articles mentioned in the two sections preceding, and shall levy his execution thereon to the amount of his debt and cost, and no more; but if no division of such goods, chattels or articles can be made,

the whole may be sold. The property unsold and the overplus of the proceeds of the property sold, shall be retained by the officer, to be delivered to the debtor whenever he shall demand the same.

SEC. 14. If any person adjudged trustee for any goods, chattels or other property whatever, shall refuse to expose the same so that the creditor may levy his execution thereon, the court shall, on return thereof made by any officer, grant a rule upon such trustee to show cause why execution should not issue against such trustee, his own goods and estate; and upon such rule being duly served and no sufficient cause shown to the contrary, judgment shall be rendered and execution issued against him for such sum as the court may think just and proper.

SEC. 15. If upon the disclosure of any person summoned as trustee in the court of common pleas, or upon the trial of an issue between him and the plaintiff, it shall appear that such person had in his possession, at the time of the service of the process upon him or afterwards, any promissory note, order, receipt, bill of exchange, bond or other promise for the payment of money, or the delivery of property belonging to the principal defendant, the court may appoint a receiver, whose duty it shall be, under the direction of the court, to collect and apply the proceeds to the payment of the debt and costs recovered by the plaintiff against the principal debtor, and to pay the surplus, if any, to such debtor.

SEC. 16. If it shall appear as aforesaid that the person summoned as trustee, had in his possession, at the time of the service of such process or afterwards, any personal property of the principal defendant, and that the same is subject to any pledge, lien or mortgage, and at the time of the disclosure has not been sold by the trustee, the court may appoint a receiver, whose duty it shall be, under the direction of the court, to dispose of the same, if a greater amount than the sum due can be obtained therefor, and after paying the amount of such pledge, lien or mortgage, to apply the balance as aforesaid.

SEC. 17. If the person so summoned as trustee shall refuse in either of the cases specified in the two preceding sections, to deliver any such note, order, receipt, bill, bond, promise or other property, on the order of the court, he shall be charged as trustee for the amount thereof, and judgment be rendered and execution issued accordingly.

SEC. 18. If any person summoned as trustee as aforesaid is indebted, at the time of the service of such process or afterwards, to such debtor by a negotiable promissory note made or payable in this State, or the parties to which at the time of making the same resided in this State, the court may make a rule requiring such debtor to appear and answer on oath all interrogatories respecting the possession, transfer or other disposition of such note, and a rule or order of notice to be served upon any individual or published in some newspaper, for the information of any person who may claim an interest in said note, so that such person may ap-

pear and show that the same was transferred to him in good faith, and for an adequate consideration, before the service of such trustee process; and the question whether the same was so transferred to him shall be decided by the jury, if he or the plaintiff request it.

SEC. 19. If it shall not appear that the note was so transferred, the promiser shall be charged as the trustee of such debtor, and the payment of the judgment rendered against him shall be a discharge from the note, or from such part thereof as is equal to the amount so paid by him, together with all costs taxed in his favor.

SEC. 20. If any such debtor shall refuse to appear, upon such order of court, he may be arrested and brought into court upon a capias, and fined not exceeding fifty dollars, and if he shall refuse to answer, may be proceeded against as for a contempt of court.

SEC. 21. No answer or disclosure of any person, or any other proceedings under the provisions of this chapter, shall be used in evidence upon any criminal prosecution against such person, except upon an indictment of the trustee for perjury in the making of such answer or disclosure.

SEC. 22. If any person shall claim any money, goods, chattels, rights or credits, or other property as aforesaid, in the hands of any supposed trustee, by assignment from the debtor or otherwise, the court may permit or cause him to appear and maintain his right. The testimony of the debtor or of any competent witness may be taken in such manner as the court shall direct, and filed with or appended to the disclosure of the trustee, and the court may award such costs between such claimant, the creditor and trustee, as justice and equity may require.

SEC. 23. Any corporation may be summoned as trustee, and may appear and answer by its treasurer, cashier, or such other officer or officers as such corporation shall appoint or the court shall direct; and the examination on oath of such officers shall be deemed to be the answer of the corporation.

SEC. 24. If any person summoned as trustee shall die before disclosure made or before judgment, his executor or administrator may come in or be summoned in to become a party to such action, as in other cases, and shall be liable in the same manner as if said action had been originally commenced against such executor or administrator.

SEC. 25. Upon the motion of either party, the court may appoint a commissioner to take the disclosure of any trustee, and if upon due notice such trustee shall neglect or refuse to appear before such commissioner or to answer all proper interrogatories, on oath, the commissioner shall report such neglect or refusal to the court, who may thereupon enter judgment against such trustee as upon default, or order such further proceedings and upon such terms as may be just and reasonable.

SEC. 26. If any person summoned as trustee is about to leave the State, to be absent beyond the next term of the court to which

the trustee process is returnable, or for other sufficient cause may not be able to attend court, and either party desires that his disclosure shall be taken, application in writing may be made to any justice of the peace for that purpose, stating the cause thereof.

SEC. 27. Such justice shall, if he deems the cause sufficient, cause such notice to be given to the adverse party as is given in the case of depositions, and may, at the time and place of hearing, proceed to take such disclosure, which shall be by written interrogatories and answers, and signed and sworn to by said trustee. Upon the return of any such disclosure into court, judgment may be rendered thereon, or such further proceedings had as equity may require.

SEC. 28. Upon disclosure made by any person summoned as trustee, the creditor may move the court that the question whether such person is trustee or not, be tried by the jury; and upon payment of the trustee's costs up to the time of filing such motion, unless the court shall restrict the same, an order shall be made and an issue framed for the trial of such question; and on such trial the disclosure so made and any other competent evidence may be offered, and judgment shall be rendered on the verdict as in other cases against trustees. In any such case the debtor may be a competent witness.

SEC. 29. If, on such trial, judgment shall be rendered against the trustee for a greater amount or for other property than he would have been chargeable for on his disclosure, judgment shall be rendered against him for costs also, including costs so paid him as aforesaid; otherwise the trustee shall recover his costs.

SEC. 30. When any person shall be adjudged a trustee of any debtor as aforesaid, except where it is otherwise specially provided, judgment shall be rendered and execution issue against such trustee, his own goods and estate therefor, or for so much thereof as will satisfy the judgment obtained against the principal defendant, in the same manner as if such suit were brought against him personally; but no judgment shall be rendered against the trustee or against the principal defendant, unless such defendant has been duly summoned or notified of such suit.

SEC. 31. If any person summoned as trustee is chargeable as such, and the principal defendant has had no personal notice of such suit, the trustee may appear and defend such suit for such defendant, and may have a continuance for the purpose of notifying such defendant, upon such terms as the court shall order, and such costs shall be awarded for or against such trustee as equity may require.

SEC. 32. If it shall appear to the court that there is fraud and collusion between the creditor and trustee, the court may refuse to admit such trustee to appear and defend as aforesaid, or may order such notice to be given to the debtor as will be most likely to be effectual, or proper security to be filed for the protection of the

rights of such defendant, before judgment shall be rendered against him.

SEC. 33. When real estate shall be attached on any such process, any person summoned as trustee in such process may be required to disclose the grounds of his claim, if any he have, to the same; and if it shall appear on the disclosure that it was conveyed to him to prevent its being seized on mesne process or execution against the principal debtor, or for the purpose of delaying or defrauding any creditor, or that he holds the same by a title apparently absolute, but which is in fact on any trust for such debtor or other person, judgment shall be rendered against such trustee for costs.

SEC. 34. Whenever it shall appear that any person summoned as trustee has received the property of the principal defendant, or holds any bill of sale or other conveyance from him, or has done any act in relation thereto, with intent to aid him in defeating or delaying any creditor, costs shall be taxed against such trustee.

SEC. 35. In all cases where the trustee has not been guilty of fraud or unnecessary delay, he shall be entitled to his costs; and the court may order the same to be deducted from the amount for which such trustee is adjudged chargeable, or may render judgment and issue execution therefor, or make such order touching the same as equity may require.

SEC. 36. Two or more persons severally liable may be summoned as trustees in the same process, and their disclosures and all other proceedings shall be several, and judgment shall be rendered for such sum as the court shall order for or against each severally, and execution shall issue therefor accordingly.

SEC. 37. Execution may be issued by the court against the principal defendant for any balance due to the plaintiff, on his judgment recovered against such defendant in any trustee suit, beyond the amount for which the trustee or trustees in such suit are chargeable, and further executions may be issued from time to time against such defendant or any trustee, as the court may order, until such judgment shall be satisfied in full.

SEC. 38. Any money, goods, chattels, rights or credits or any property of any description of any debtor, taken by the provisions of this chapter out of the possession of any trustee, shall fully discharge such trustee, his executors or administrators, from all actions or causes of action in favor of such debtor, his executors or administrators; and if any such trustee shall be sued therefor, or for any thing done by virtue of the provisions of this chapter, he may plead the general issue and give the special matter in evidence under it.

SEC. 39. Any trustee process may be brought and maintained before any justice of the peace, where the sum demanded in damages shall not exceed thirteen dollars and thirty-three cents, and all the several provisions in this chapter contained, not restricted

to the court of common pleas, so far as the same are applicable to and not inconsistent with process before a justice of the peace, shall be deemed to apply thereto.

SEC. 40. If any trustee named in any such process resides out of the county in which the same is brought, the writ and any execution issued against such trustee shall be directed to the sheriff of any county in this State, or his deputy, or to any constable of the town in which such trustee resides.

SEC. 41. When the trustee in any such suit resides out of the county in which the process is brought, the plaintiff shall file a bond, to be approved by the justice before whom the suit is brought, and in such sum as he shall order, running to such trustee, and conditioned to pay all costs which such trustee may recover in such suit, which bond shall be filed with such justice, and a minute thereof made on such writ and signed by him before the service of such writ on any such trustee.

SEC. 42. The fees of every trustee in any court for actual necessary attendance as trustee, shall be the same as that of a witness.

CHAPTER 222.

OF THE ACTION AGAINST TENANTS.

IDENTICAL WITH

Chapter 209 of the Revised Statutes.

SECTION

1. Leases at will, how determined.
2. Notice, what is sufficient.
3. " on breach of condition.
4. " to tenant holding over.
5. Leases at will, what are deemed.
6. Lessee may give notice to quit.
7. Possession of premises, how recovered of lessee or occupant.
8. Summons, form of, in such case.
9. " how served.
10. Judgment on default or issue for plaintiff, what to be.
11. Writ of possession, form of.

SECTION

12. Judgment for defendant, when.
13. Evidence of title not admissible under the general issue.
14. Recognizance on plea of title.
15. Neglect to recognize, judgment.
16. Action to be entered in C. C. P.
17. Either party may appeal, when.
18. Recognizance of plaintiff, how.
19. " " defendant, how.
20. Proceedings on appeal.
21. Judgment affirmed, when.
22. Common law remedy not affected.

SECTION 1. Any lessor or owner of any lands or tenements, may at any time determine any lease at will or tenancy at sufferance, by giving to the tenant or occupant a notice in writing to quit the same at a day therein named.

SEC. 2. If any tenant or occupant neglects or refuses to pay the rent due and in arrear, upon demand, seven days' notice shall be sufficient. If the rent is payable more frequently than once in three months, whether such rent is due or not due, thirty days' notice shall be sufficient, and three months' notice shall be sufficient in all cases.

SEC. 3. If any lessee shall violate the condition of any written lease, notice to quit at the end of seven days shall be sufficient and equivalent to an entry for condition broken.

SEC. 4. If any lessee shall hold over after the expiration of a definite written lease, seven days' notice shall be sufficient.

SEC. 5. Every tenancy or occupancy shall be deemed to be at will and the rent payable upon demand, unless a different contract is shown.

SEC. 6. Any lessee may terminate his lease by notice in writing in the same manner as the lessor, and such notice shall have the same effect for all purposes as a notice by the lessor to the lessee.

SEC. 7. The owner or lessor of any tenement or real estate may recover possession thereof, against any lessee or occupant holding the same without right, after a notice to quit the same, in the manner herein prescribed.

SEC. 8. A writ of summons may be issued returnable before a justice, which shall set forth in substance, that the plaintiff is entitled to the possession of the demanded premises, and that the defendant is in possession of the same without right, after notice in writing to quit the same.

SEC. 9. Such writ shall be served seven days before the return day thereof, in the same manner as other writs of summons should by law be served.

SEC. 10. If the defendant shall make default, or if, on trial, it shall be considered by the justice that the plaintiff has sustained his complaint, judgment shall be rendered that the plaintiff recover possession of the demanded premises and costs.

SEC. 11. A writ of possession shall be thereupon issued by said justice, substantially in the form prescribed by law in the case of like writs issued by the court of common pleas.

SEC. 12. If the plaintiff shall neglect to enter his action or to support the same, judgment shall be rendered for the defendant for his costs.

SEC. 13. Under the general issue, the defendant shall not be allowed to offer any evidence which may bring the title to the demanded premises in question.

SEC. 14. If the defendant shall plead any plea which may bring in question the title to the demanded premises, he shall recognize to the plaintiff, with sufficient sureties, in such sum as the justice shall order, to enter and prosecute said action at the next court of common pleas for the county, and to pay all rent then due or which

shall become due, pending said action, and the damages and costs which may be awarded against him.

SEC. 15. If the defendant shall neglect or refuse so to recognize, judgment shall be rendered against him in the same manner as if he had refused to make answer to the suit.

SEC. 16. After the filing of such plea and the entry of such recognizance, no further proceedings shall be had before such justice, but the action may be entered and prosecuted in the court of common pleas, in the same manner as if it were originally commenced there.

SEC. 17. Any party aggrieved by the judgment of any justice upon issue joined in such case may, within two hours after the rendition of such judgment, appeal to the next court of common pleas for the county.

SEC. 18. The plaintiff, before his appeal is allowed, shall recognize to the defendant, with sufficient sureties, in such sum as the justice may order, to enter and prosecute his appeal and to pay such costs as may be awarded against him.

SEC. 19. The defendant, before his appeal is allowed, shall recognize to the plaintiff, with sufficient sureties, in such sum as the justice may order, to enter and prosecute his appeal and to pay all rent then due or which may become due, pending such suit, and such damages and costs as may be awarded against him.

SEC. 20. The party appealing shall produce certified copies of the whole case at the court appealed to, and either party may there offer any evidence in the same manner as if the cause had been originally commenced there.

SEC. 21. If the appellant shall neglect to enter his appeal or to produce such copies, the court, on complaint of the appellee, shall affirm the former judgment with additional damages and costs.

SEC. 22. Nothing in this chapter shall be construed to prevent any landlord from pursuing his legal remedy at common law.

CHAPTER 223.

OF REFERENCES OF DISPUTES BY CONSENT, AND CONFESSIONS OF DEBT BEFORE A JUSTICE OF THE PEACE.

IDENTICAL WITH

Chapter 210 of the Revised Statutes.

SECTION

1. References, when allowed.
2. Form of agreement to refer.
3. Agreement to be acknowledged.
4. Reference of specific demand, mode.

SECTION

5. Reference of all demands, mode.
6. Submission not to be revoked.
7. Hearing may be fixed by parties.
8. Award how to be made.

SECTION

9. Powers of referees, and oaths.
10. Report returned to court, how.
11. Award, when to be made public.
12. Report accepted by court or recommended, and proceedings.
13. Powers of the court in such case.
14. Fees of justices, referees, &c.

SECTION

15. Costs, how allowed by referees.
16. If amount under \$200, justice may issue execution on report.
17. Confession of debt regulated.
18. Record to be made by justice.
19. Executions therefor, how served.

SECTION 1. All controversies which may be the subject of a personal action, may be submitted to one or more referees in the mode prescribed in this chapter.

SEC. 2. The parties may appear personally or by attorney before any justice of the peace in the county in which either of the parties resides, and there sign and acknowledge an agreement in substance as follows :

" Know all men by these presents, that of in the county of and State of and of in the county of and State of have agreed to submit the demand made by the said against the said which is hereto annexed," (or, " and all other demands between said parties," as the case may be,) " to the determination of the report of whom, or the major part of whom, being made as soon as may be to the court of common pleas for the said county of judgment thereon shall be final. And if either party shall neglect to appear before said referees, after proper notice given to them of the time and place appointed by the referees for hearing the parties, the referees may proceed in his absence.

Dated this day of in the year 18 ."

SEC. 3. Said agreement having been signed by each of the parties, shall be acknowledged by them or their attorneys as their free act and deed, before the same or some other justice, and any referee, being a justice, may take said acknowledgment.

SEC. 4. If a specific demand only is submitted, it may be inserted in the agreement, or the same shall be signed by the party making it and annexed to the agreement, and such demand shall be as particular in stating the substance of the claim in controversy, as the nature of the case will admit.

SEC. 5. If all demands between the parties are submitted to the referees, no specific demand need be annexed to the agreement.

SEC. 6. Neither party shall have power to revoke the submission without the consent of the other.

SEC. 7. The parties, if so disposed, may agree upon and fix in said agreement the time and place for the hearing, for making an award thereon, and may vary the form accordingly.

SEC. 8. All the referees must meet and hear the parties, unless the parties otherwise agree, but a majority may make an award,

and their report shall be as valid as though signed by all the referees. It shall appear on the face of the award, or by the certificate of the dissenting referee, that all of them attended and heard the parties, unless the parties shall waive the same in writing on said agreement.

SEC. 9. The referees shall have the same authority as those appointed by rule of court, and any one of them may administer an oath to witnesses in the cause.

SEC. 10. The report of the referees shall be delivered by one of the referees to the court to which the same is to be returned, according to the agreement; or it shall be sealed up by them and transmitted to such court, and remain sealed until opened by the clerk in open court.

SEC. 11. If the parties agree, the referees may make known their determination prior to its being returned to the court as aforesaid, and if the parties agree to settle their dispute accordingly, said report need not be returned to court.

SEC. 12. The court to which any such report is made, may accept, reject or recommit the same for further consideration; and the referees upon any recommitment, shall appoint a time and place for a new hearing and give the parties notice thereof, and the proceedings thereupon shall be the same as in the original hearing.

SEC. 13. The court shall have the same cognizance of any such report of referees, as they would have if such report were made by referees appointed under a rule from said court in a case pending therein, and may render judgment and issue execution thereon.

SEC. 14. The fees of the justice for making and taking the acknowledgment of such agreement shall be fifty cents, to be paid by the party making the demand, and charged in the bill of costs. The entry and all other fees shall be the same as in suits in the same court.

SEC. 15. The referees may allow such costs as they may deem reasonable, unless restricted by the submission, and subject to the revision of the court for good cause shown.

SEC. 16. In any case contained in the first section of this chapter, the parties may enter into an agreement to submit the same to referees as hereinbefore provided, and that the report of such referees shall be made to such justice and judgment by him rendered thereon, in which case the form of said agreement may be varied accordingly. The referees shall proceed in the manner and possess the same powers as is hereinbefore provided, and the justice, upon receiving such report, shall render judgment and issue execution thereon for damages and costs.

SEC. 17. Any person may voluntarily appear before any justice of the peace in the county in which he resides, and confess that he is indebted to any other person in a sum not exceeding two hundred dollars, and consent that a record thereof be made and

execution issue accordingly, or be stayed as said parties shall agree; and the justice shall make a fair record of such confession and agreement, which shall be signed by the debtor and the creditor or his agent, and shall enter up judgment and issue execution thereon.

SEC. 18. Every justice to whom any confession of debt or report of referees is made as aforesaid, shall keep a full and true record thereof, signed and certified by himself.

SEC. 19. Every execution issued by any justice as aforesaid, may be served in the same manner as if issued by the court of common pleas.

TITLE XXV.

OF FINES, FORFEITURES, COSTS AND RECOGNIZANCES.

CHAPTER 224. Of fines, penalties, costs and recognizances.

CHAPTER 225. Of forfeitures of personal property.

CHAPTER 224.

OF FINES, PENALTIES, COSTS AND RECOGNIZANCES.

IDENTICAL WITH

Chapter 211 of the Revised Statutes.

SECTION

1. Penalties and forfeitures, how recovered.
2. " " " how appropriated.
3. Time of neglect, how reckoned.
4. Fines, how recovered.
5. Trial, where to be had.
6. Justice, when qualified to sit.
7. General issue may be pleaded, effect.
8. If private prosecutor neglects to prosecute, how prosecuted.
9. Limitation of prosecutions.

SECTION

10. Witness not disqualified by interest.
11. If a penalty belongs to a town, suit, how brought.
12. Offender neglecting to perform his sentence, to be committed.
13. Fines, how to be appropriated.
14. Defendant, if guilty, to pay costs.
15. Expenses of prosecution allowed.
16. Upon forfeiture of recognizance, complainant indemnified.
17. Recognizances, how taken, and suits thereon.

SECTION 1. All penalties and forfeitures may be recovered by action of debt before a justice of the peace, if such penalty or

forfeiture do not exceed thirteen dollars thirty-three cents, otherwise before the court of common pleas, by any person who will sue for the same, unless otherwise provided by law.

SEC. 2. Every such penalty and forfeiture shall be one half for the use of the county in which the offence is committed, the other half for the use of the prosecutor, unless otherwise limited by law.

SEC. 3. When any penalty shall be imposed by any law for any neglect for any period of time, such neglect may be alleged to have commenced at any specified time, and shall be reckoned from the time so alleged.

SEC. 4. All fines imposed by any statute may be recovered by information or indictment, if no other mode of recovery is specially provided.

SEC. 5. All actions, informations and indictments founded on any penal statute, shall be brought within the county in which the offence is committed, and not elsewhere.

SEC. 6. In actions for the recovery of any penalty before any justice, it shall be no cause of exception that such justice resides or has property within the town in which the offence was committed, or that the penalty, or any part thereof, may belong to such town.

SEC. 7. The defendant in any such action may plead the general issue, and under it give any special matter in evidence.

SEC. 8. If a fine or forfeiture, or any part thereof, is given by any statute to any prosecutor, and no person shall prosecute therefor within the time limited by such statute, an information may be filed or an indictment be found therefor, within one year after such limitation shall expire, and the penalty shall accrue to the use of the county.

SEC. 9. All suits or prosecutions founded upon any penal statute, which are wholly or in part for the use of the prosecutor, shall be brought within one year, and all other suits or prosecutions on such statute, within two years after the commission of the offence, unless otherwise specially provided.

SEC. 10. No person shall be disqualified from being a witness on the trial of any such information or indictment, by reason of any interest which he may have in any penalty to be recovered therein.

SEC. 11. When any penalty or forfeiture, or any part thereof, shall be given to any town by any penal statute, the selectmen may sue therefor in the name of such town which shall be entitled to the benefit, and shall defray the expenses of such prosecution, and the selectmen may remit any such penalty or forfeiture.

SEC. 12. If any person sentenced under any penal statute shall refuse or neglect to perform such sentence, he shall be committed to the common jail, there to be imprisoned until such sentence is performed, or he is discharged by due course of law.

SEC. 13. All fines arising in any manner shall be for the use

of the county, and shall be paid over to the treasurer thereof, unless otherwise specially appropriated.

SEC. 14. If, upon any complaint or prosecution before any court or justice, the defendant shall be ordered to pay a fine, enter into a recognizance or suffer any penalty, he shall also be ordered to pay costs of prosecution, or such part thereof as justice may require.

SEC. 15. If any service shall be performed by any person by direction of any court or justice, or of the attorney general or solicitor of the county, in bringing to justice any offender charged with a crime or high-handed misdemeanor, the justices of the court of common pleas shall allow a reasonable sum therefor, and draw their warrant for the same upon the treasurer of the county.

SEC. 16. If any recognizance shall be forfeited in any case in which, if such recognizer had been convicted, any sum might have been due to the complainant or any other person, the justices of the court of common pleas may ascertain the just sum and costs that might be due, and draw their warrant therefor upon the treasurer of the county.

SEC. 17. All recognizances shall be taken in the name of the State, and suits thereon may be brought and tried in the county in which they may be taken, unless the court, in their discretion, shall order the venue to be changed to some adjoining county.

CHAPTER 252.

OF FORFEITURES OF PERSONAL PROPERTY.

IDENTICAL WITH

Chapter 212 of the Revised Statutes.

SECTION

1. Seizure of property forfeited, how.
2. Libel to be filed, when and where.
3. Warrant thereon, how issued.
4. Notice of libel to be given.
5. Property may be sold, how.

SECTION

6. Property appraised and restored, when.
7. Mode of trial and decree.
8. Costs on trial, how allowed.
9. Appeal and proceedings thereon.

SECTION 1. Where any personal property shall be forfeited for any violation of law, any sheriff, deputy sheriff, constable or any person by law authorized to seize the same, may take and retain such property until he shall deliver it to a proper officer having a warrant to detain the same.

SEC. 2. The person making or directing such seizure shall, without unnecessary delay, file a libel before a justice, if the property does not exceed in value thirteen dollars thirty-three cents,

otherwise in the office of the clerk of the court of common pleas, stating the cause and praying for a decree of forfeiture.

SEC. 3. Upon the filing before or after seizure of any libel for a forfeiture, a warrant shall be issued to the proper officer, requiring him to take such property into his custody and detain the same until legally disposed of.

SEC. 4. Notice of such libel shall be issued by the court or justice to the owner, if known, otherwise notice shall be published in some newspaper printed in the vicinity, that all persons interested may appear at the time and place appointed for trial, and show cause why a decree of forfeiture should not be passed.

SEC. 5. If any person interested shall appear and claim such property, the same may be sold by consent of parties, or it may in any case be sold, upon examination and a certificate of its perishable or expensive character, in the same manner as property attached may be examined and sold.

SEC. 6. If such claimant shall request it, such property shall be appraised in the same manner as property attached may be appraised, and it shall be delivered to such claimant upon his giving bond to pay to the persons entitled thereto, the appraised value thereof and costs, in case a decree of forfeiture is made.

SEC. 7. The case may be tried by a jury, if in the court of common pleas, upon the request of either party, otherwise by the court; and the cause of forfeiture alleged, being proved, the court or justice who shall try the same shall make a decree for the forfeiture and disposition of such property according to law.

SEC. 8. Costs may be awarded to the libellant, if a reasonable cause of seizure appear, in which shall be included the necessary expenses of the seizure and detention of the property, otherwise reasonable costs and damages shall be awarded to the claimant.

SEC. 9. An appeal may be claimed by either party from any decree made by a justice of the peace in the same manner as in civil actions; and the like proceedings may be had therein as in case of libels originally filed in the court of common pleas.

TITLE XXVI.

OF CRIMES AND PUNISHMENTS.

- CHAPTER 226. Of offences against the State.
 CHAPTER 227. Of offences against the life or person.
 CHAPTER 228. Of regulating the sale of active poisons.
 CHAPTER 229. Of offences against property.
 CHAPTER 230. Of forgery and counterfeiting.
 CHAPTER 231. Of offences against public justice.
 CHAPTER 232. Of offences against the public peace.
 CHAPTER 233. Of offences against chastity, decency and morality.
 CHAPTER 234. Of offences against public policy.
 CHAPTER 235. General provisions concerning crimes.
 CHAPTER 236. Of rewards for the apprehension of criminals.
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CHAPTER 226.

OF OFFENCES AGAINST THE STATE.

IDENTICAL WITH

Chapter 213 of the Revised Statutes.

SECTION

1. Treason, how punished.
2. Misprision of treason punished.

SECTION

3. Indictment to be found within two years.
4. Embezzlement by public officers.

SECTION 1. If any person owing allegiance to this State shall levy war or conspire to levy war against the same, or shall in any way give aid and comfort to the enemies of this State, and shall be thereof convicted, either upon confession in open court or by the testimony of two or more witnesses to the same overt act of treason of which such person may be indicted, such person shall be adjudged guilty of treason, and shall be punished by solitary imprisonment not exceeding three years, and by confinement to hard labor for life.

SEC. 2. If any person shall know that any other person has committed or is intending to commit treason, and shall not, within fourteen days from the time of his having such knowledge, give information thereof to the governor or to some justice of the peace of this State, he shall on conviction thereof be adjudged guilty of misprision of treason, and shall be punished by confinement to

hard labor not exceeding seven years, or by fine not exceeding two thousand dollars.

SEC. 3. No person shall be tried for treason or misprision of treason, unless the indictment therefor be found within two years next after the commission of the offence.

SEC. 4. If any public officer, being a receiver of public money under any law of this State, shall fraudulently convert the same to his own use, or pay or deliver the same to any person, knowing that such person is not entitled to receive the same, he shall be punished by confinement to hard labor not exceeding two years, or by imprisonment in the common jail not exceeding one year, and by fine not exceeding two thousand dollars.

CHAPTER 227.

OF OFFENCES AGAINST THE LIFE OR PERSON.

COMPILED FROM

Chapter 214 of the Revised Statutes.

" 743, Laws of 1848.

SECTION

1. Murder, degree, how determined.
2. On plea of guilty, how determined.
3. Punishment of murder.
4. " " manslaughter.
5. " " robbery.
6. " " rape.
7. " " maiming.
8. Assault with intent to kill, rob, &c., how punished.
9. Concealing birth of child, punishment.
10. On indictment for murder, may be found guilty of a less offence.

SECTION

11. Penalty for administering medicine in certain cases.
12. Punishment for committing abortion.
13. " " causing death of a woman pregnant with child.
14. " of woman who shall submit to death of her child.
15. " " kidnapping.

SECTION 1. All murder committed by poison, starving, torture or other deliberate and premeditated killing, or committed in perpetration or in the attempt at the perpetration of arson, rape, robbery or burglary, is murder of the first degree; and all murder not of the first degree is of the second degree. If the jury shall find any person guilty of murder, they shall also find by their verdict whether it is of the first or second degree.

SEC. 2. If any person shall plead guilty to an indictment for murder, the court having cognizance thereof, shall determine the degree.

SEC. 3. The punishment of murder in the first degree shall be

death, and the punishment of murder in the second degree shall be solitary imprisonment not exceeding three years, and confinement to hard labor for life.

SEC. 4. If any person shall be guilty of manslaughter, he shall be punished by fine not exceeding one thousand dollars, or by fine not exceeding five hundred dollars, and imprisonment in the common jail not exceeding one year, or by solitary imprisonment not exceeding six months, and confinement to hard labor for life or for a term not less than one year, according to the aggravation of the offence.

SEC. 5. If any person, by assault or by violence and putting in fear, shall feloniously steal, rob and take from the person of another any money, goods, chattels or other property which is the subject of larceny, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for life.

SEC. 6. If any person shall ravish and carnally know any woman, committing carnal copulation with her by force against her will, or if any man shall unlawfully and carnally know and abuse any woman child under the age of ten years, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for life.

SEC. 7. If any person, with intent to maim or disfigure, shall maliciously cut off an ear, cut out or maim the tongue, put out an eye, cut off or slit the nose or lip, or cut off or disable any limb or member of any person, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for a term not less than one year nor more than twenty years.

SEC. 8. If any person shall make an assault upon another with intent to commit any crime described in this chapter, the punishment whereof may be death or confinement to hard labor for life, or shall attempt to commit any such crime by any means not constituting an assault, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for a term not less than one year nor more than ten years.

SEC. 9. If any woman shall be privately delivered of a child, which if born alive would be a bastard, and shall endeavor privately to conceal its death and the manner or cause thereof, she shall be punished by confinement to hard labor not exceeding two years, or imprisonment in the common jail not exceeding two years, or by fine not exceeding two thousand dollars.

SEC. 10. The murder of such child and the offence described in the preceding section may be charged in the same indictment, and the person accused may be found guilty of either offence as the evidence may warrant.

SEC. 11. Every person who shall wilfully administer to any pregnant woman any medicine, drug, substance or thing whatever, or shall use or employ any instrument or means whatever with intent thereby to procure the miscarriage of any such woman, unless

the same shall have been necessary to preserve the life of such woman, or shall have been advised by two physicians to be necessary for that purpose, shall, upon conviction, be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, at the discretion of the court. (*Laws of 1848, chap. 743, sec. 1.*)

SEC. 12. Every person who shall administer to any woman pregnant with a quick child, any medicine, drug or substance whatever, or shall use or employ any instrument or means whatever, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such woman, or shall have been advised by two physicians to be necessary for such purpose, shall, upon conviction, be punished by fine not exceeding one thousand dollars, and by confinement to hard labor not less than one year nor more than ten years. (*Laws of 1848, chap. 743, sec. 2.*)

SEC. 13. Any person who shall cause the death of any pregnant woman in the perpetration or attempt to perpetrate either of the crimes mentioned in the two preceding sections, or in consequence of the perpetration or the attempt to perpetrate either of said crimes, shall be taken and deemed to be guilty of murder in the second degree, and be punished accordingly. (*Laws of 1848, chap. 743, sec. 3.*)

SEC. 14. Any woman who shall voluntarily submit to the violation of the provisions of this act, [this and the three preceding sections,] upon herself, shall be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both said fine and imprisonment, at the discretion of the court. (*Laws of 1848, chap. 743, sec. 4.*)

SEC. 15. If any person, without lawful authority, shall forcibly or secretly confine or imprison any other person within this State, against his will, or shall forcibly carry or send such person out of the State, or shall forcibly seize, inveigle or kidnap any person, with intent either to cause such person to be sent out of the State against his will, or to be sold, or in any way held to service against his will, he shall be punished by confinement to hard labor not exceeding ten years. (*R. S., sec. 11.*)

CHAPTER 228.

OF REGULATING THE SALE OF ACTIVE POISONS.

COMPILED FROM

Chapter 736, Laws of 1848.

" 997, " " 1850.

SECTION

1. Apothecaries to keep records of sale of active poisons.

SECTION

2. Not to apply to physicians in certain cases.
3. Penalty for violation.

SECTION 1. Every apothecary, druggist or other person who shall sell any arsenic, corrosive sublimate, nux vomica, strychnine or prussic acid, shall make a record of such sale in a book kept for that purpose, specifying the kind and quantity of the articles sold, and the time when, and the name of the person to whom such sale is made, which record shall be open to all persons who may wish to examine the same. (*Laws of 1848, chap. 736, sec. 1, amended by laws of 1850, chap. 997.*)

SEC. 2. The foregoing section shall not apply to physicians in their prescriptions or recipes to their patients. (*Laws of 1848, chap. 736, sec. 2.*)

SEC. 3. Any person who shall violate the provisions of this chapter shall forfeit the sum of one hundred dollars, to be recovered by indictment in any court of competent jurisdiction, one half to the use of the county and the other half to the use of the prosecutor. (*Laws of 1848, chap. 736, sec. 3.*)

CHAPTER 229.

OF OFFENCES AGAINST PROPERTY.

COMPILED FROM

Chapter 215 of the Revised Statutes.

"	346,	Laws of 1846.
"	502,	" " 1847.
"	849,	" " 1849.
"	968,	" " 1850.
"	970,	" " 1850.
"	1094,	" " 1851.
"	1095,	" " 1851.
"	1230,	" " 1852.
"	1305,	" " 1852.

SECTION

1. Arson, how punished.
2. Burning other buildings, punishment.
3. Placing obstructions on railroads, how punished.
4. Penalty for injuring any telegraphic line.
5. Burning grain, lumber, &c., punished.
6. Burglary, how punished.
7. " in second degree, punished.
8. Breaking, &c., office, in night time.
9. Breaking or entering any building in night, or breaking and entering in day time.
10. Larceny in building, punishment.
11. Maiming cattle to injure owner.
12. Larceny from the person, punished.
13. " of horse, &c., punished.
14. " to the value of twenty dollars.
15. " of less value than twenty dollars.
16. " of deeds, papers, &c.
17. Receiving or concealing stolen property, how punished.
18. Owner to have judgment for value.
19. Malicious mischief punished.

SECTION

20. Fraudulent conveyance of property.
21. " receipt of property.
22. If property under one hundred dollars, punishment in such case.
23. Fine in such case, how appropriated.
24. Penalty for fraud by personating another.
25. " for converting property held by bailee, to his own use.
26. " for stealing property to the amount of ten dollars.
27. Powers of justices of the peace.
28. Penalty for wilful trespass upon the garden or other improved lands of another.
29. " if property destroyed exceed in value twenty dollars.
30. " for wilfully and maliciously exposing the land and property of another to injury by cattle or otherwise.
31. " for catching or destroying fish in artificial fish ponds.
32. Action to be commenced within six months.

SECTION 1. If any person shall wilfully and maliciously burn any dwelling-house, or any out-building adjoining thereto, or any building whereby any dwelling-house shall be burned, he shall be punished by solitary imprisonment not exceeding six months, and

by confinement to hard labor for life or for a term not less than seven years.

SEC. 2. If any person shall wilfully and maliciously burn any vessel lying within the body of any county, or any bridge, or any building other than those described in the preceding section, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for a term not less than two years nor more than twenty years.

SEC. 3. If any person shall wilfully and maliciously place any obstruction on the track of any railroad, or remove any rail therefrom, or in any way injure such railroad, or do any other thing thereto whereby the life of any person may be endangered, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for life or for a term not less than two years.

SEC. 4. Any person who shall wilfully and maliciously injure or destroy any of the posts, wires, or other materials or fixtures, employed in the construction and use of any line of electro-magnetic telegraph, erected or which may hereafter be erected, within the limits of this State, and all persons who shall aid or assist therein, shall, on conviction thereof, be punished in the same way and manner as is provided for the punishment of any wilful and malicious injury done or committed upon the property and fixtures of any railroad corporation existing within this State. (*Laws of 1846, chap. 346.*)

SEC. 5. If any person shall wilfully and maliciously burn any stack of corn, hay, grain, or flax, or any fence, or any pile of boards, lumber or wood, or any trees or underwood of another, he shall be punished by confinement to hard labor for a term not less than one year nor more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the common jail not exceeding one year.

SEC. 6. If any person shall in the night time break and enter any dwelling-house, with intent to commit any crime the punishment whereof may be death or confinement to hard labor for life, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor for life or for a term of not less than five years.

SEC. 7. If any person shall in the night time break and enter any dwelling-house, with intent to commit any other crime the punishment whereof may be confinement to hard labor, or to commit any larceny, he shall be punished by solitary imprisonment not exceeding sixty days, and by confinement to hard labor not less than three years nor more than ten years.

SEC. 8. If any person, with intent to commit any crime the punishment whereof may be confinement to hard labor, or to commit larceny, shall in the night time break and enter any office, bank, shop, store or warehouse, or any vessel lying within the body

of any county, he shall be punished by confinement to hard labor for a term not less than three years nor more than ten years.

SEC. 9. If any person, with intent to commit any crime the punishment whereof may be confinement to hard labor, shall in the night time either break or enter, or in the day time break and enter any building or any vessel lying within the body of any county, he shall be punished by confinement to hard labor for a term not less than one year nor more than seven years.

SEC. 10. If any person shall in the night time break or enter, or in the day time break and enter any dwelling-house or out-house adjoining thereto, any office, bank, shop, store, warehouse, barn, granary or mill, any meeting-house, court-house, town-house, college, academy, school-house, or other building erected for the public use, or any vessel lying within the body of any county, and shall therein commit larceny, he shall be punished by confinement to hard labor for a term not exceeding five years. (*Laws of 1851, chap. 1094.*)

SEC. 11. If any person shall wilfully and maliciously kill, maim, wound, poison or disfigure any horse, cattle, sheep or swine of another, with intent to injure their owner or any other person, he shall be punished by confinement to hard labor not less than one year nor more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the common jail not exceeding one year.

SEC. 12. If any person shall commit any larceny from the person of another, he shall be punished by confinement to hard labor not less than three years nor more than seven years.

SEC. 13. If any person shall steal, take and carry away any horse, mule, cattle, sheep or swine, the property of another, he shall be punished by confinement to hard labor not less than three years nor more than seven years.

SEC. 14. If any person shall steal, take and carry away of the property of another any money, bank bills, goods or chattels, or any writing containing evidence of any existing debt, contract, liability, promise or ownership of property, of the value of twenty dollars, or of the receipt, payment or discharge of the like amount, or any writing of a like kind, which together shall contain the like evidence, he shall be punished by confinement to hard labor for a term not less than two years nor more than five years.

SEC. 15. If any person shall steal, take and carry away any property of another, such as is described in the preceding section, of a less amount or value than twenty dollars, he shall be punished by imprisonment in the common jail not exceeding one year, and by fine not exceeding one hundred dollars, and shall be further sentenced to pay to the owner treble the value of the property so stolen, deducting from such treble value the value of any part of said property which may be returned.

SEC. 16. If any person shall steal, take and carry away any deed or other writing importing to contain the conveyance, re-

lease or defeasance of any title to or interest in any real estate or any will, policy of insurance, bill of sale of any vessel, or letter of attorney, or any writ, process or record of any court of this State, or any public record, or any record of any corporation, public or private, he shall be punished by confinement to hard labor for a term not less than two years nor more than five years.

SEC. 17. If any person shall receive or conceal any property stolen as aforesaid, knowing the same to have been so stolen, he shall be punished in the same manner as if he had so stolen the same, and either before or after the conviction of the principal felon.

SEC. 18. If any person shall be convicted of stealing or of receiving or concealing any property stolen as aforesaid, excepting in cases where treble value of the property is awarded, the owner of such property, upon such conviction, shall have judgment and execution in common form against such convict for the value thereof, deducting the value of such part as may be returned. If said convict shall be committed to jail upon such execution, he shall have the same relief as if it had issued upon a judgment recovered in an action of trespass.

SEC. 19. If any person shall wilfully and maliciously commit any act whereby any tree placed or growing for ornament or use in any garden, yard, street, square or other place, or whereby the real or personal estate of another shall be injured, such person shall be punished by imprisonment in the common jail for a term not less than thirty days nor more than one year, or by fine not exceeding one hundred dollars, or by both of said punishments, in the discretion of the court.

SEC. 20. If any person shall fraudulently mortgage, pledge, sell, alienate or convey any of his real or personal estate amounting in value to the sum of one hundred dollars, or shall fraudulently conceal his personal estate of that value, to prevent the attachment or seizure of the same upon mesne process or execution, he shall be punished by imprisonment not less than thirty days nor more than one year, or by fine not exceeding double the value of such estate, or by both of said punishments.

SEC. 21. If any person shall fraudulently receive any such mortgage, pledge or conveyance, or shall conceal the property of any debtor of that value, with intent to prevent such attachment or seizure, he shall be punished in the manner provided in the preceding section.

SEC. 22. If any person shall be guilty of any act described in the two preceding sections, where the property is of less value than one hundred dollars, he shall be punished by imprisonment not less than ten days nor more than six months, or by fine not exceeding double the value of such property, or by both of said punishments.

SEC. 23. In the cases mentioned in the three preceding sec-

tions, the fine shall be the one half for the use of the complainant, and the other half to the use of the county.

SEC. 24. If any person, with intent to cheat or defraud, shall personate or represent another, and shall thereby, or by means of any false pretence or false token, counterfeit letters, or other false means, wrongfully obtain any money or other property, or any writing containing evidence of debt, or any receipt or acquittance, or shall by any such means attempt so to cheat or defraud another, or if any person shall by any such means and with such intent, obtain the signature of another to any instrument or paper purporting to be a conveyance or evidence of debt, or to any receipt, discharge or acquittance of any debt, claim or right, such person so offending, upon conviction thereof, shall be punished by fine not exceeding five hundred dollars, or by confinement in the common jail for a term not exceeding one year, or by confinement to hard labor in the State prison for a term not exceeding seven years, according to the aggravation of the offence. (*Laws of 1850, chap. 968.*)

SEC. 25. If any person to whom any money, goods or other property which may be the subject of larceny, shall have been delivered or intrusted for keeping, or carriage, or use, for manufacture or work thereon, shall fraudulently dispose of, or convert to his own use, the same or any part thereof, or shall secrete the same or any part thereof, with intent so to fraudulently dispose of or convert to his own use, he shall be deemed by so doing to have committed the crime of larceny, and shall be punished therefor according to the value of the property so disposed of or converted, as provided in the thirteenth and fourteenth sections of chapter two hundred and fifteen of the revised statutes, (fourteenth and fifteenth sections of this chapter.) (*Laws of 1849, chap. 849.*)

SEC. 26. If any person shall steal, take and carry away of the property of another, any money, bank bills, goods or chattels, or any writing containing evidence of any existing debt, contract, liability, promise or ownership of property, of the value of ten dollars or less, or of the receipt, payment or discharge of the like amount, or any writings of the like kind which together shall contain the like evidence, he shall be punished by imprisonment in the jail of the county where the offence shall be committed, not exceeding ninety days, or by fine not exceeding ten dollars, and shall be further sentenced to pay the owner treble the value of the property so stolen, deducting from such treble value the value of any part of said property which may be returned. (*Laws of 1847, chap. 502, sec. 1.*)

SEC. 27. Every justice of the peace is authorized to hear and determine prosecutions arising in his county under this act, (the preceding section,) and to issue a warrant to carry his judgment into effect in case no appeal is taken, and in case any respondent shall claim an appeal from any sentence against him to the next

court of common pleas to be holden in the same county, such orders shall be made, and such subsequent proceedings shall be had in relation thereto as are required in chapter two hundred and twenty-two of the revised statutes, (two hundred and thirty-seven of this compilation.)

SEC. 28. If any person shall wilfully and maliciously commit any trespass, by entering upon the garden, orchard, or other improved land of another, or upon any wood, timber, or unimproved land of another, with intent wilfully to cut, take, carry away, destroy or injure any trees, fruit or vegetables there growing and being, such person shall be punished by imprisonment in the common jail not more than ninety days, or by a fine not exceeding ten dollars, or by both, at the discretion of the court, and shall further be sentenced to pay the owner thereof treble the value of the property so cut, taken, carried away, destroyed or injured. (*Laws of 1852, chap. 1230, sec. 1, amended by laws of 1852, chap. 1305.*)

SEC. 29. If the value of the property so cut, taken, carried away, injured or destroyed, shall exceed the sum of twenty dollars, the person so offending shall be punished by confinement to hard labor in the State prison for a term of time not less than one year nor more than five years. (*Laws of 1852, chap. 1230, sec. 2.*)

SEC. 30. If any person shall wilfully and maliciously prostrate or open the fence of another, or cause the same to be done, and thereby expose the land or property of such person to injury, by cattle or other animals, or shall wilfully and maliciously cause any cattle or other animals to go upon the land of another and thereby injure the crops or property of another, he shall be punished by fine not exceeding ten dollars and by imprisonment in the common jail not exceeding one year. (*Laws of 1851, chap. 1095, sec. 1.*)

SEC. 31. If any person shall without right catch or destroy any fish in any artificial pond kept and maintained as a fish pond for the breeding of fish, he shall be punished by a fine of five dollars for every such offence, to be recovered in an action of debt by the party aggrieved, for his own benefit, or on complaint before any justice of the peace for the county in which the offence shall be committed. (*Laws of 1850, chap. 970, sec. 1.*)

SEC. 32. Such action shall be brought within the space of six months after the commission of the offence, and not after. (*Laws of 1850, chap. 970, sec. 2.*)

CHAPTER 230.

OF FORGERY AND COUNTERFEITING.

IDENTICAL WITH

Chapter 216 of the Revised Statutes.

SECTION

1. Forgery defined and punished.
2. Passing or using such forged papers.
3. Forgery in other cases punished.
4. Counterfeiting bank bills, punishment.
5. Passing counterfeit bills, punishment.
6. Engraving plates, &c., for counterfeiting, how punished.

SECTION

7. Evidence of charter, what is.
8. Counterfeiting coin, punishment.
9. Passing counterfeit coin, how punished.
10. Engraving moulds, &c., for counterfeiting, how punished.

SECTION 1. If any person shall falsely make or counterfeit, or fraudulently alter any public record, any writ, process or proceeding of any court of this State; any certificate or attestation of a justice of the peace, notary public, clerk of any court, town clerk or other public officer, in any matter wherein such certificate or attestation may be received as legal proof; any charter, will, deed, bond, or writing obligatory, letter of attorney, policy of insurance, certificate of stock, bill of exchange, promissory note, order, acquittance, discharge for money or property; any acceptance of a bill of exchange, or any endorsement or assignment of any bill of exchange or promissory note; any certificate or accountable receipt for money or property; any warrant, order or request for the payment of money, or the delivery of any property or writing of value; or any writing whatever, purporting to contain evidence of the existence or discharge of any debt, contract or promise; with intent that any person may be defrauded, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor not less than three years nor more than seven years.

SEC. 2. Every person who shall pass or use, or offer to pass or use, as true, any such counterfeited or altered writing, mentioned in the preceding section, knowing the same to be such, with intent that any person should be defrauded, shall be punished in the manner specified in the preceding section.

SEC. 3. If any person shall falsely make or counterfeit or alter any writing, not included in the first section, or shall knowingly use the same with intent that and whereby any person may be defrauded, he shall be punished by confinement to hard labor not exceeding three years.

SEC. 4. If any person shall falsely make or counterfeit, or shall fraudulently alter any bank bill or note purporting to be issued by

any bank, with intent that any person may be defrauded, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor not less than five years nor more than twenty years.

SEC. 5. If any person shall pass or offer to pass, as true, or shall bring into this State or have in his possession or custody any such false, counterfeited or altered bank bill or note described in the preceding section, knowing the same to be so false, counterfeited or altered, with intent that any person may be defrauded, he shall be punished by solitary imprisonment not exceeding four months, and by confinement to hard labor not less than two years nor more than five years.

SEC. 6. If any person shall make, mend or engrave or begin to make, mend or engrave any plate, block, press or other tool or instrument, or shall make or provide any paper or other material, adapted or designed for forging or making any such false, counterfeited or altered bank bills or notes described in the two preceding sections, or shall have in his possession any such plate, block, press, tool, instrument, paper or material adapted or designed as aforesaid, with intent to use the same, or cause or permit the same to be used in forging or making such false and counterfeit bank bills or notes, he shall be punished by solitary imprisonment not exceeding four months, and by confinement to hard labor not less than two years nor more than five years.

SEC. 7. Upon the trial of any indictment under the three sections preceding, evidence that bills or notes purporting to be issued by any bank, are commonly received as currency, or other proof of the existence of any bank or banking company therein described, shall be competent evidence for the jury of its legal establishment and existence.

SEC. 8. If any person shall make any false coin in imitation of any gold or silver coin current within this State by law or usage, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor not less than four years nor more than ten years.

SEC. 9. If any person shall pass or offer to pass, as true, or shall bring into this State or have in his possession any false and counterfeit coin described in the preceding section, knowing the same to be so false and counterfeit, and with intent that any person may be defrauded, he shall be punished by solitary imprisonment not exceeding four months, and by confinement to hard labor not less than two years nor more than five years.

SEC. 10. If any person shall cast, stamp, engrave, make or mend, or begin to cast, stamp, engrave, make or mend, or shall have in his possession, any mould, pattern, die, punch, engine, press, tool or other instrument adapted or designed for making false and counterfeit coin, in imitation of any gold or silver coin current within this State by law or usage, with intent that the same may

be so used, he shall be punished by solitary imprisonment not exceeding four months, and by confinement to hard labor not less than two years nor more than five years.

CHAPTER 231.

OF OFFENCES AGAINST PUBLIC JUSTICE.

IDENTICAL WITH

Chapter 217 of the Revised Statutes.

SECTION

1. Perjury, the offence and punishment.
2. False swearing constitutes perjury.
3. Subornation of perjury.
4. Indictment for perjury and subornation of perjury.
5. Obstructing officer or rescuing prisoner charged with a minor offence.
6. Obstructing officer or rescuing prisoner charged with infamous crime.
7. Obstructing officer or rescuing prisoner charged with capital offence.
8. Obstructing officer or rescuing prisoner in other cases.
9. Aiding attempt of prisoner to escape, without any escape, how punished.
10. Conveying tools to convict punished.

SECTION

11. Aiding escape of prisoner confined for debt, how punished.
12. Aiding escape of prisoner for any offence not capital.
13. Aiding escape of prisoner confined for capital offence.
14. Suffering voluntarily the escape of any prisoner.
15. Suffering negligently the escape of any prisoner.
16. If such prisoner is returned, punishment how remitted.
17. Falsely personating officer, penalty.
18. Town clerk making false record or return, penalty.

SECTION 1. If any person, being on oath or affirmation in any legal proceeding before any court, justice of the peace, referee, arbitrator, auditor or other person authorized by law to administer such oath or affirmation, shall commit perjury, he shall be punished by solitary imprisonment not exceeding four months, and by confinement to hard labor not less than two years nor more than five years.

SEC. 2. If any person, in regard to any matter or thing wherein he is required by law to make oath or affirmation, shall wilfully swear or affirm falsely, he shall be deemed guilty of perjury and punished accordingly.

SEC. 3. If any person shall corruptly procure or attempt to procure another to commit perjury, he shall be punished in the same manner as for the crime of perjury.

SEC. 4. In every prosecution for perjury or subornation of perjury, it shall be sufficient to set forth the offence charged, before what court or person such oath or affirmation was taken, and that such court or person had competent authority to administer the

same, with proper averments to falsify the matter wherein the perjury is assigned, without setting forth, otherwise than as aforesaid, any record or other proceeding in law or in equity, or the commission or authority of such court or person before whom the perjury was committed.

SEC. 5. If any person shall wilfully assault or obstruct any officer or other person duly authorized in the service of any lawful process or order in any civil case or in any criminal case, the punishment of which is imprisonment in the common jail and fine or either, or shall rescue or attempt to rescue any prisoner lawfully arrested in any such case, he shall be punished by confinement in the common jail not exceeding one year, and by fine not exceeding three hundred dollars.

SEC. 6. If any person shall wilfully assault or obstruct any officer or other person duly authorized in the service of any criminal process for any offence punishable by confinement to hard labor for a term of years, or shall rescue or attempt to rescue any prisoner lawfully arrested in any such case, he shall be punished by confinement to hard labor not exceeding one half of such term, or by imprisonment in the common jail not exceeding two years, or by a fine not exceeding five hundred dollars, or by both of the two last.

SEC. 7. If any person shall wilfully obstruct or assault any officer or other person duly authorized in the service of any criminal process for any offence punishable by death or confinement to hard labor for life, or shall rescue or attempt to rescue any prisoner lawfully arrested in such case, he shall be punished by confinement to hard labor not exceeding ten years, or by imprisonment in the common jail not exceeding two years and fine not exceeding five hundred dollars.

SEC. 8. If any person shall wilfully obstruct or assault any officer or person duly authorized in the discharge of any duty of his office in any case not included in the preceding sections, he shall be punished by imprisonment in the common jail not exceeding six months, or by fine not exceeding one hundred dollars.

SEC. 9. If any person shall convey any tool or other thing into any place of confinement, or afford aid in any manner, with intent that any prisoner may escape therefrom, but without any escape, he shall be punished by imprisonment in the common jail not exceeding one year, and by fine not exceeding five hundred dollars.

SEC. 10. If any person shall convey any tool, weapon or other thing to any prisoner convicted of any offence punishable by death or confinement to hard labor, or into any place of confinement, with intent to aid any such convict to escape, he shall be punished by solitary imprisonment not exceeding six months and by confinement to hard labor not exceeding ten years, or by fine not exceeding five hundred dollars.

SEC. 11. If any person shall aid in any manner in the escape of any prisoner committed to any place of confinement for debt,

he shall pay such debt and be imprisoned in the common jail not exceeding one year.

SEC. 12. If any person shall aid in any manner in the escape of any prisoner committed, before or after conviction, to any place of confinement for any criminal offence not capital, he shall be liable to the same punishment to which such prisoner was or would have been liable, or to imprisonment in the common jail not exceeding one year, and fine not exceeding two thousand dollars.

SEC. 13. If any person shall in any manner assist in the escape of any prisoner committed, before or after conviction, to any place of confinement for any capital offence, he shall be punished by confinement to hard labor for life or any term of years.

SEC. 14. If any person, having the custody of any prisoner arrested or committed for debt or crime, shall voluntarily permit his escape, he shall be punished in the same manner prescribed in the three preceding sections for aiding in the escape of a prisoner committed for like cause.

SEC. 15. If any person having the custody of any prisoner arrested or committed for crime, shall negligently suffer his escape, he shall be fined not exceeding five hundred dollars.

SEC. 16. If any person, guilty of the offence described in either of the five preceding sections, shall, within six months after any such escape of any prisoner, recover and return such prisoner to the place of confinement from which he escaped, cases of rescue excepted, he shall be liable to such fine as the court may order, and the imprisonment shall be remitted.

SEC. 17. If any person, not being a sheriff, deputy sheriff or other officer whose duty it is to keep the peace or apprehend persons for violating the same, shall falsely pretend to be or shall assume to act as such, or to require any other person to aid or assist him in any matter or thing belonging to the duty of a sheriff, deputy sheriff or other officer as aforesaid, he shall be punished by fine not exceeding three hundred dollars, one half to the use of the county, the other half to the prosecutor.

SEC. 18. If the clerk of any town or place shall wilfully and corruptly make a false record of any vote or other proceeding in any legal town meeting, or any false copy of any record or any false certificate for return of votes, he shall be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor not less than two years nor more than five years.

CHAPTER 232.

OF OFFENCES AGAINST THE PUBLIC PEACE.

IDENTICAL WITH

Chapter 218 of the Revised Statutes.

SECTION

1. Assault and battery, powers of justice.
2. " " " if aggravated.

SECTION

3. Riots, proclamation to be made, how.
4. Penalty for disobedience of rioters.

SECTION 1. If any person shall assault or beat another or in any way break the peace, upon complaint and conviction thereof before any justice, he shall be fined not exceeding ten dollars, or imprisoned not exceeding thirty days, and shall also recognize with sufficient surety or sureties to keep the peace and be of good behavior until the next term of the court of common pleas to be holden in the county.

SEC. 2. If such offence is of an aggravated nature, the justice may order such offender to recognize with sufficient surety or sureties to appear at the court of common pleas next to be holden in the county, and on conviction of such offender before said court, he may be punished by fine not exceeding two hundred dollars, and imprisonment not exceeding six months, or by either of said punishments.

SEC. 3. If any persons shall be unlawfully, riotously and tumultuously assembled, any justice, sheriff or his deputy, or any constable, shall approach the rioters as near as he can with safety, and demand silence while proclamation is being made, and shall then make proclamation in these or like words: "In the name of the State of New Hampshire, every person here assembled is commanded to disperse immediately, and depart peaceably to his home or lawful employment."

SEC. 4. If any person shall continue so unlawfully, riotously and tumultuously assembled, after proclamation made by such peace officer as aforesaid, or shall wilfully obstruct or assault such officer known or openly declared by himself to be such, in making such proclamation, he shall be punished by fine not exceeding one thousand dollars, and by imprisonment in the common jail not exceeding one year.

CHAPTER 233.

OF OFFENCES AGAINST CHASTITY, DECENCY AND MORALITY.

IDENTICAL WITH

Chapter 219 of the Revised Statutes.

SECTION

1. Adultery, how punished.
2. If either unmarried, punishment.
3. Lewdness, &c., how punished.
4. Fornication, how punished.
5. Cohabiting, if husband or wife alive, how punished.
6. Punishment in such case excused.

SECTION

7. Incest defined and punished.
8. Blasphemy defined and punished.
9. Profane swearing punished.
10. Digging up dead body, punished.
11. Injuring tombs, &c., punished.
12. Cruelty to animals, punished.

SECTION 1. If any person shall commit the crime of adultery, such person shall be punished by imprisonment in the common jail not exceeding one year, and fine not exceeding five hundred dollars.

SEC. 2. If any married man or woman shall commit an act, or have a connection with an unmarried person, which would constitute adultery if both were married, such married woman or the man so offending shall be guilty of adultery and punished accordingly.

SEC. 3. If any man or woman shall be guilty of open, gross lewdness, or lascivious behavior, such person shall be punished by imprisonment in the common jail not exceeding six months, and a fine not exceeding two hundred dollars, and shall also recognize, with sufficient sureties, to be of good behavior for a term not exceeding three years.

SEC. 4. Any person who shall be guilty of fornication shall be punished by fine not exceeding fifty dollars, or imprisonment in the common jail not exceeding six months; but no person shall be so convicted solely upon the testimony of a partner in guilt.

SEC. 5. If any person, having a husband or wife alive, shall marry or cohabit with any other person, such person so marrying or cohabiting shall, except in the cases specified in the following section, be punished as in case of adultery.

SEC. 6. The provisions of the preceding section shall not extend to any person whose husband or wife shall be absent and not heard of or from for the space of three years together, or shall be reported and generally believed to be dead, or to any person legally divorced, or where the former marriage took place within the age of consent.

SEC. 7. All persons, being within the degrees of consanguinity or affinity, in which marriages are prohibited or declared by law to

be incestuous, who shall intermarry with or carnally know each other, shall be punished as in case of adultery.

SEC. 8. If any person shall openly deny the being of a God, or wilfully blaspheme the name of God, Jesus Christ or the Holy Ghost, or shall curse or reproach the word of God contained in the canonical books of the old and new testaments, he shall be fined not exceeding two hundred dollars, and may be holden to recognize, with sureties, for his good behavior for a term not exceeding one year.

SEC. 9. If any person shall profanely curse or swear, he shall be fined one dollar for such offence, and for any offence subsequent to such conviction, double said sum, and in default of payment of any such fine shall be committed to the house of correction for a space not exceeding ten days; but no prosecution shall be sustained unless commenced within ten days after the commission of the offence.

SEC. 10. If any person, not authorized by the selectmen, overseers of the poor, or a justice of the peace of the town, or by any law, or by a relative or friend for the purpose of re-interment, shall dig up, remove or carry away any human body or the remains thereof, or shall conceal the same, knowing it to have been so illegally dug up, he shall be punished by confinement to hard labor not exceeding one year, or by fine not exceeding two thousand dollars, and by imprisonment in the common jail not exceeding one year.

SEC. 11. If any person shall wrongfully destroy, mutilate, deface, injure or remove any tomb, monument, grave stone or other structure in any place used or intended for the burial of the dead, or any fence, railing or curb for the protection of any such structure, or any enclosure for any such place of burial, or shall wrongfully injure, cut, remove or destroy any tree or shrub growing within any such enclosure, he shall be punished by imprisonment in the common jail not exceeding six months, or by fine not exceeding five hundred dollars, or by both of said punishments.

SEC. 12. If any person shall wilfully and maliciously kill, maim, beat or wound any horse, cattle, sheep or swine, he shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding ninety days, or by both of such punishments.

CHAPTER 234.

OF OFFENCES AGAINST PUBLIC POLICY.

IDENTICAL WITH

Chapter 220 of the Revised Statutes.

SECTION

1. Lotteries forbidden and punished.
2. Selling lottery tickets, &c., punished.
3. Gaming house, penalty for keeping.

SECTION

4. Winning over \$5,00, punishment.
5. " under \$5,00, punishment.

SECTION 1. If any person shall make or put up any lottery, or shall dispose of any estate, real or personal, by lottery, he shall be fined not exceeding five hundred dollars, nor less than fifty dollars.

SEC. 2. If any person shall sell, dispose of, offer or keep for sale any ticket or part thereof in any lottery, or shall print or publish an account thereof, or of the place where or person by whom any ticket therein or any part of such ticket is kept for sale, or to be otherwise disposed of, he shall be fined not exceeding one hundred dollars, nor less than twenty-five dollars.

SEC. 3. If any person shall keep any gaming house or place, and shall suffer and permit any person to play at cards, dice, billiards, or at any bowling alley or any game whatever therein, for money, hire, gain or reward, or to bet on the hands or sides of such as are so playing, such person shall be punished by a fine not less than ten dollars, nor more than two hundred [dollars,] or by imprisonment in the county jail not exceeding one year.

SEC. 4. Every person who shall be convicted of winning at any one time or sitting, by gaming or by betting on the sides or hands of such as are gaming, any money or goods to the value of five dollars or more, and of receiving the same or any security therefor, shall forfeit to the use of the town where the offence shall have been committed, double the value of the money or goods so won and received.

SEC. 5. Every person who shall be convicted, on complaint before a justice, of winning as aforesaid any money or goods of less value than five dollars, and of receiving the same or any security therefor, shall forfeit to the use of the town where such offence is committed, not less than two dollars nor more than ten [dollars.]

CHAPTER 235.

GENERAL PROVISIONS CONCERNING CRIMES.

IDENTICAL WITH

Chapter 221 of the Revised Statutes.

SECTION

1. Accessories, how punished.
2. Attempt to commit capital offence.

SECTION

3. Attempt to commit offence not capital.
4. " by hiring, &c., punished.

SECTION 1. If any person shall aid in, counsel, hire or procure the commission of any offence, or shall be accessory thereto before or after the fact, he shall be punished in the same manner as the principal offender, and may be tried and convicted thereof, either before or after the conviction of the principal offender.

SEC. 2. If any person shall attempt the commission of any offence which may be punishable by confinement to hard labor for life, he shall be punished by solitary imprisonment not exceeding six months, and confinement to hard labor not exceeding ten years nor less than one year.

SEC. 3. If any person shall attempt the commission of any other offence, he shall be liable to a punishment not exceeding one half of that which may be inflicted for the commission of the same offence.

SEC. 4. If any person shall attempt the commission of any offence by the counsel, hiring or procurement of any other person, the person so counselling, hiring or procuring such attempt, shall be punished in the same manner as the person making such attempt.

CHAPTER 236.

OF REWARDS FOR APPREHENSION OF CRIMINALS.

IDENTICAL WITH

Chapter 735, Laws of 1848.

SECTION 1. The mayor and city council of any city, and the selectmen of any town or place in this State, are authorized and empowered, whenever in their opinion the public good may require it, to offer and pay from the treasury of such city, town or place, a suitable reward, not exceeding three hundred dollars in any one

case to any person who shall in consequence of such offer apprehend and secure any person or persons charged with having committed any capital or other high crime.

TITLE XXVII.

OF PROCEEDINGS IN CRIMINAL CASES.

- CHAPTER 237. Of criminal jurisdiction of justices of the peace.
 CHAPTER 238. Of fugitives from justice.
 CHAPTER 239. Of coroners' inquests.
 CHAPTER 240. Of proceedings in criminal cases.

CHAPTER 237.

OF CRIMINAL JURISDICTION OF JUSTICES OF THE PEACE.

IDENTICAL WITH

Chapter 222 of the Revised Statutes.

SECTION

1. Jurisdiction of justices.
2. Appeals allowed to court of common pleas, how.
3. Offenders, when to be committed.
4. Copy of complaint, &c., to be made and lodged in court.
5. Witnesses to be recognized.
6. Refusing to recognize, committed.
7. Examination may be postponed.
8. Justice may apprehend on view, when.
9. " " bind over to keep the peace.
10. Proceedings to be on complaint.

SECTION

11. Fines, &c., to be paid over, how.
12. Search warrants in day time.
13. " " " night time.
14. Justice may authorize disinterment.
15. Fugitives from justice, complaint.
16. " how arrested and remanded.
17. Justice throughout the State, powers.
18. Proceedings before such justice.
19. Officers, their powers on warrants.
20. Recognizances forfeited, proceedings thereon.
21. Costs on prosecutions, how paid.

SECTION 1. Every justice is authorized to hear and determine prosecutions and actions of a criminal nature arising within his county, where the punishment is by fine not exceeding ten dollars, and to issue a warrant to carry his judgment into effect in case no appeal is taken.

SEC. 2. Any person, sentenced by a justice as aforesaid for any offence, may appeal from such sentence to the next court of

common pleas to be holden in the same county, but such appeal must be claimed at the time of declaring the sentence; and the appellant shall enter into recognizance, with sufficient sureties, in a reasonable sum, not exceeding one hundred dollars, for his appearance at said court, and to prosecute his appeal with effect, and to abide the order of court thereon, and in the mean time to be of good behavior; otherwise such appeal shall not be granted.

SEC. 3. Any justice may cause to be apprehended and committed to jail or bound over, with sufficient sureties, or trial by the court of common pleas in such county, all persons charged with offences committed in such county exceeding his jurisdiction to try.

SEC. 4. In the cases mentioned in the two preceding sections, the justice shall make out a certified copy of the process and records in the cause, and file the same with the clerk of said court on or before the first day of the next term thereof.

SEC. 5. Whenever any justice shall commit or bind over any person for trial as aforesaid, he shall take the recognizance of all necessary witnesses who appear before him, for their appearance at said court of common pleas, in such sum as he may think reasonable.

SEC. 6. If any person, upon being ordered by any justice to recognize, shall neglect or refuse so to do, the justice may issue his warrant and order such person to be committed to jail until he comply with such order.

SEC. 7. When any person is brought before any justice, charged with any offence, said justice may postpone the examination thereof, if necessary, to some future time, and may take the recognizance of the parties and witnesses for their appearance at the time and place to which such examination is postponed.

SEC. 8. Every justice, upon the view of any breach of the peace, or other transgression of law proper for his cognizance, or when necessary for the preservation of the peace, may command any officer or other person to bring before him any such offender, to be kept until complaint can be made against him, and may order such offender to find sureties to keep the peace until the next term of the court of common pleas in the said county. If any person shall refuse to obey any such command, he shall be subject to the same penalty as for disobeying an officer.

SEC. 9. Any justice may order any person arrested for a criminal offence, or against whom a complaint under oath has been made by any other person fearing injury to his person or property, to find sureties to keep the peace until the next term of the court of common pleas for the same county, and to pay costs of prosecution, and may commit such person for neglect thereof.

SEC. 10. All proceedings before a justice shall be on complaint duly signed and sworn to before some justice, who shall issue his warrant thereon.

SEC. 11. Every justice shall pay over to the town or county to which any fine or forfeiture accrues, every such fine or forfeiture

by him received, within six months after the receipt of the same, or to the person to whom the same is payable, on demand, and on default thereof shall forfeit double the amount thereof to any person who shall sue therefor.

SEC. 12. Any justice, upon complaint on oath made by any person that he suspects that any personal property stolen, embezzled or falsely obtained, or any offender or the subject matter of any offence, is concealed in any place or in one of several places therein specified, may grant a warrant for searching such place or places in the day time.

SEC. 13. Upon like complaint and satisfactory evidence that any such property or thing, or any criminal is concealed in any particular house or place, and may escape or be removed before day, such justice may grant a warrant for searching such house or place in the night time.

SEC. 14. Any justice, upon complaint made on oath by any person, setting forth that he has reasonable grounds for suspecting that any deceased person who has been interred, came to his death by some unlawful means, may issue his warrant requiring that such body shall be disinterred and examined, and may summon and examine witnesses in relation to the truth of such complaint.

SEC. 15. When any person, against whom a warrant is issued for an alleged offence committed in any county in this State, shall not be found in such county, but shall be found in some other county in this State, any justice of the county in which such offender is found, upon application made to him and proof that such warrant issued from lawful authority, shall issue his warrant directed to all proper officers in his county, directing them to arrest such offender and convey him to some justice in and for the county from which such warrant issued, for examination, or deliver him to the sheriff or his deputy of such county, to be by him conveyed to such justice for the purpose aforesaid.

SEC. 16. Any such offender may be arrested in any county in this State by any officer to whom such warrant was originally directed, and carried before any justice in and for such county, who, upon proof that such process was duly issued, shall, by his warrant directed to such officer, send such offender into the county in which such original warrant issued, for examination according to law.

SEC. 17. Any justice of the peace throughout the State may receive a complaint for an offence committed in any county in this State, and may issue his warrant thereon directed to the sheriff of any county in this State, or his deputy or any proper officer, authorizing such officer to apprehend such offender and to bring him before such justice or some justice in and for the county in which the offence was committed, for examination.

SEC. 18. Such justice may order such offender to recognize, with sufficient sureties, to appear at the court of common pleas next to be holden in and for the county in which the offence was

committed, and to answer to said complaint, and to abide the order of court thereon, or may commit such offender to the jail in such county, as is hereinbefore provided.

SEC. 19. If any precept is directed to any officer by any justice, and in the execution thereof it shall be necessary for such officer to pass through any town or county in which such officer has no general authority to act, such officer may pass and convey any offender through such town or county, and shall be entitled to all the rights and subject to all the liabilities of an officer within such limits.

SEC. 20. If any person, under recognizance to appear before any justice, shall fail to appear accordingly, or to abide the order of such justice, the justice shall make a record thereof and declare such recognizance to be forfeited, and shall file a copy of such recognizance and record of forfeiture thereon with the clerk of the court of common pleas in such county, on or before the first day of the next term of said court.

SEC. 21. All legal costs attending the arrest, examination or conveyance of any offender, shall be paid by the complainant, unless the same is directed by the counsel for the State or allowed by the court of common pleas.

CHAPTER 238.

OF FUGITIVES FROM JUSTICE.

IDENTICAL WITH

Chapter 223 of the Revised Statutes.

SECTION

1. Fugitives to be delivered, when.
2. Proceedings, if offence is capital.
3. " " " " not capital.
4. Prisoner discharged unless demanded, when and how.
5. Prisoner may be arrested, when.
6. Complainant to pay costs, when.

SECTION

7. Governor to examine into cause.
8. When to deliver up and how.
9. Prisoner may be carried through the State, when and how.
10. Mode of proceeding in such case.
11. Powers of officers in such cases.
12. Penalty for obstructing officer.

SECTION 1. Whenever any person shall be found within this State, charged with any offence committed in any other state, and liable by the constitution and laws of the United States to be delivered over, upon the demand of the executive of such state, any court or magistrate authorized to issue warrants in criminal cases, may, upon complaint on oath setting forth the offence, and such other matters as are necessary to bring the case within the provisions of the law, issue a warrant to bring the person so

charged before him, or some other court or magistrate within the State, to answer to such complaint, as in other cases.

SEC. 2. If, upon examination, it shall appear to such court or magistrate that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the executive of this State, he shall, if charged with a capital offence, be committed to jail, there to be detained until a future day which shall be so appointed and fixed as to allow a reasonable time to obtain the warrant of the executive of such other state.

SEC. 3. If such person is charged with an offence not capital, the court or magistrate may order him to recognize, with sufficient sureties, to appear at a day so appointed; and if such person shall fail to recognize, may commit him to jail, there to be detained not exceeding thirty days, unless sooner discharged by due course of law. If any person so recognizing shall fail to appear according to the condition of his recognizance, he shall be defaulted, and the like proceedings had as in case of other recognizances.

SEC. 4. If the person so recognized or committed shall appear before the court or magistrate upon the day ordered, he shall be discharged, unless he shall be demanded by some person authorized by the warrant of the executive to receive him.

SEC. 5. Any person, authorized by warrant of the executive, may take such offender into custody at any time, whether recognized, committed or discharged, and such taking shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

SEC. 6. The complainant in every such case shall pay all the actual costs and charges, and for the support in jail of any person committed as aforesaid, at the rate of one dollar and fifty cents per week, and shall advance the money therefor from time to time, or give to the jailer satisfactory security therefor. If the complainant shall neglect, for twenty-four hours after he is required by the jailer, to give such security or advance the money for the support of the person so committed, the jailer may discharge him.

SEC. 7. When a demand shall be made upon the executive authority of this State by the executive of any other state, in any case authorized by the constitution and laws of the United States for the delivery over of any person charged in such state with treason or other crime, the attorney general or any other prosecuting officer, when required by the governor, shall forthwith investigate the grounds of such demand, and report to the governor all material facts which may come to his knowledge, as to the situation and circumstances of the person so demanded; and especially whether he is held in custody, or is under recognizance to answer for any offence against the laws of the United States or of this State, or by force of any civil process, and also whether such demand is made conformably to law, so that such person ought to be delivered up.

SEC. 8. If the governor shall be satisfied that the demand is

conformable to law, and ought to be complied with, he shall issue his warrant under the seal of the State, authorizing the agent who shall make such demand either forthwith, or at such time as shall be designated in the warrant, to take and transport such person to the line of this State, at the expense of such agent, and shall also, by such warrant, require the civil officers within this State to afford all needful assistance in the execution thereof.

SEC. 9. When any offender shall be apprehended in any neighboring state, and it may be necessary to carry him through this State to the place where the offence was committed, any justice in this State, upon application made and proof that lawful process has issued against such offender, shall issue a warrant under his hand and seal, directed to any sheriff or his deputy, or to any person by name, who shall be sworn to the faithful performance of his duty, authorizing such conveyance.

SEC. 10. Such person or officer shall cause such offender to be conveyed to the line of this State next to the state where the offence was committed, there to be delivered to some proper officer ready to receive him; and all persons to whom such warrant may be directed are required to obey such order upon payment or tender of the lawful fees therefor.

SEC. 11. Any sheriff, deputy sheriff, constable or other officer of justice of any neighboring state, with his assistants, in the execution of any lawful process issuing from and returnable to any court in such state, may pass himself and convey such persons or things as he may have in his custody by virtue of any such lawful process, through this State, in as full and ample a manner as any officer of this State might do.

SEC. 12. If any person shall assault or obstruct any such officer or his assistant, passing through this State in the execution of any such process, he shall be liable to the same punishment as if such person were an officer of this State.

CHAPTER 239.

OF CORONER'S INQUESTS.

IDENTICAL WITH

Chapter 224 of the Revised Statutes.

SECTION

1. Coroner's inquests, when holden.
2. Jury to be summoned; form.
3. Service of summons, how made.
4. Jury not attending, penalty.
5. Vacancies in jury, how filled.

SECTION

6. Oath of jurors, form.
7. Witnesses to be summoned, how.
8. Jury to be charged; duties.
9. Proclamation to be made.
10. Oath of witnesses, form.

SECTION

11. Witnesses examined, recognized.
12. Verdict of jury and return.
13. Form of inquisition.

SECTION

14. If offender not in custody, duty.
15. Body to be buried by coroner.

SECTION 1. It shall be the duty of the coroner to take an inquest, upon the view of the dead body of any person whose death is supposed to have been occasioned by violence or casualty, within the county for which he is commissioned, whenever the majority of the selectmen of the town in which such dead body is found, shall, in writing signed by them, authorize the same.

SEC. 2. In every such case the coroner shall issue a summons directed to three reputable persons, one of whom shall be a justice of the peace, requiring them to appear before him at a time and place therein specified, as jurors to inquire into the cause of such death, which summons shall be in substance as follows :

THE STATE OF NEW HAMPSHIRE.

R. ss.



To

GREETING.

In the name of the State of New Hampshire, you are hereby required to appear before me _____ one of the coroners of the county of _____ at the dwelling house of _____ (or at the place called _____) within said town of _____ on the _____ day of _____ at _____ o'clock in the _____ noon, then and there to inquire upon a view of the body of _____ (or a person unknown,) there lying dead, how and in what manner he came to his death. Fail not of appearance at your peril.

Given under my hand and seal at _____ in said county, the day of _____ A. D., 18 .

_____ Coroner.

SEC. 3. Service of such summons may be made upon such jurors by any sheriff, deputy sheriff or constable authorized to serve precepts within such precinct, by reading the same to every such juror, or by giving him a true and attested copy thereof in hand, and shall make return thereof to the coroner at the time and place of hearing.

SEC. 4. If any person summoned as juror as aforesaid, shall, without reasonable excuse, fail of appearance, or if any officer shall, without sufficient cause, fail to make due service or return of any such summons, he shall forfeit ten dollars.

SEC. 5. If any person named in such summons shall fail to attend at the time and place of taking such inquest, the coroner shall require the officer in attendance, or some other person, to return jurors from the by-standers to complete the number.

SEC. 6. The coroner shall administer to the jurors who are assembled the following oath :

"You solemnly swear that you will diligently inquire and due presentment make, in behalf of this State, how and in what manner who here lies dead, came to his (or her) death; and that you will deliver to me one of the coroners of this county, a true inquest thereof, according to such evidence as shall be laid before you, and according to your knowledge. So help you God."

SEC. 7. The coroner may issue a subpoena for any witness, or compulsory process, if necessary, to be issued and served in the same manner as any justice of the peace might do upon a complaint in behalf of the State before him, and the powers, duties and liabilities of the coroner, officer or witness shall be the same as upon such complaint.

SEC. 8. The jurors having been sworn, the coroner shall give them a charge, upon their oaths, to declare of the death of the person, whether he died of felony, mischance or accident; and if of felony, whether he died of his own or of another; if of the felony of another, who were the principals and who accessories, with what instrument he was struck or wounded, and all important circumstances; if he died of his own felony, the manner, means and instrument thereof, and all circumstances attending it; if by mischance or accident, how and in what manner; and in all cases to inquire whether he was killed in the place where found or elsewhere, and if elsewhere, how and by whom he came to such place; and every fact relating to the cause of death which the finder of the body or any other person may know.

SEC. 9. The jurors being charged shall stand together, and the coroner shall cause proclamation to be made, for all persons who can give evidence how and in what manner the person then and there lying dead came to his death, to draw near and be sworn.

SEC. 10. The coroner shall administer to every witness the following oath.

"You solemnly swear that the testimony which you shall give to this inquest, concerning the death of here lying dead, shall be the whole truth and nothing but the truth. So help you God."

SEC. 11. The testimony of every witness shall be drawn up in writing and subscribed by him; and if his testimony charge any person with killing or being in any way instrumental in the death of the person so found dead, the coroner shall bind such witness by recognizance, in a reasonable sum, for his personal appearance at the next term of the court of common pleas for the same county, there to give evidence accordingly; if such witness shall refuse to recognize as aforesaid, the coroner shall commit him to the common jail.

SEC. 12. The jury having viewed the body, heard the evidence and made all the inquiry in their power, shall draw up and deliver

to the coroner their verdict upon such death in writing under their hands, and the coroner shall set his hand and seal thereto, and shall return the same with all recognizances, if any, by him taken, to the next term of the court of common pleas holden within and for the same county.

SEC. 13. The form of the inquisition shall be in substance as follows :

THE STATE OF NEW HAMPSHIRE.

R. ss. An inquisition taken at _____ in said county, the day of _____ in the year of our Lord _____ before one of the coroners of said county, upon the view of the body of there lying dead, by the oaths of _____ a justice of the peace for said county, and of _____ and _____ all reputable persons, who being sworn and charged to inquire for the State when, how and by what means the said _____ came to his death, upon their oaths do say (here insert how, where, when, by what means and with what instrument the death occurred.) So the jurors aforesaid upon their oaths aforesaid do say (here insert the following in case of murder :) that the said _____ (or some person to the jurors unknown) in manner and form aforesaid, the aforesaid _____ then and there, of his malice aforethought, did kill and murder, against the peace and dignity of the State; (in case of self murder insert instead :) that the said _____ in manner and form aforesaid, then and there voluntarily and feloniously, as a felon of himself, did kill and murder himself, against the peace and dignity of the State; (or in case of death by misfortune insert instead :) that the said _____ in manner aforesaid came to his death by misfortune; (or in case of death happening innocently by the hands of another person, insert instead :) that the aforesaid _____ the aforesaid _____ (deceased) by misfortune, and contrary to the will of the said _____ in manner and form aforesaid did kill and slay.

In witness whereof the said jurors have hereunto set their hands the day and year first above written.

_____,
_____,
_____, } Jurors.

In witness of all above written the said coroner hath hereto set his hand and seal the same day and year.

_____. (L. s.)

SEC. 14. If any person charged by the inquest with having caused the death of the person whose body lies dead before them, shall not then be in custody, the coroner shall forthwith notify some justice of the peace of the same county thereof, that such person may be apprehended, examined and secured for trial according to law.

SEC. 15. Every coroner, after taking an inquest of the violent

or casual death of any stranger, shall bury the dead body in a decent manner, and the expenses of such inquest and burial shall be paid to said coroner out of the treasury of the county, upon his certifying that the deceased was a stranger, on his account being examined and allowed by the court of common pleas.

CHAPTER 240.

OF PROCEEDINGS IN CRIMINAL CASES.

COMPILED FROM

Chapter 225 of the Revised Statutes.

" 34, Laws of 1843.

" 855, " " 1849.

" 962, " " 1850.

SECTION

1. Offenders to be indicted before trial.
2. Trial, where, if offence committed partly in two counties.
3. Prisoner indicted for capital offence entitled to copy of indictment, &c.
4. Witnesses may be used to rebut or explain.
5. Proceedings when prisoner stands mute.
6. Any person indicted for murder may plead, &c.
7. Prisoner may challenge jurors.
8. State not entitled to peremptory challenge.
9. Time of execution.
10. Punishment of death, how inflicted.
11. Solitary imprisonment, how inflicted.
12. Punishment in cases where benefit of clergy allowed.
13. " on second conviction.
14. " on third conviction.
15. Proceedings upon second or third conviction.

SECTION

16. Convict to be branded upon a second commitment.
17. Effect of imprisonment for life.
18. Convict liable for costs of prosecution.
19. Prosecutor to receive compensation for expenses, when.
20. Complainant may be witness.
21. Intent to defraud, how alleged and proved.
22. Officers to seize articles made, kept or used unlawfully.
23. Neglect of duty by public officer, penalty if no other specified.
24. Insane offender, how treated.
25. " " how supported.
26. " " how discharged.
27. If bond given, friends may claim.
28. Any person indicted may plead not guilty by reason of insanity.
29. Court may commit insane offenders to jail or insane hospital.
30. Insane offenders, how supported.
31. " " " discharged.

SECTION 1. No person shall be tried for any offence, the punishment of which may be death or confinement to hard labor, until an indictment be found against him by the grand jury of the county in which the offence was committed.

SEC. 2. If any person shall be feloniously stricken, wounded or

poisoned in one county, and shall die of the same stroke, wound or poison in another county; or if any person shall aid in the commission of any offence, or be accessory thereto before the fact, in one county, which offence may be committed by the principal offender in another county; or if parts of any offence may be committed in more than one county; in either of said cases the offence shall be deemed to have been committed, and the indictment may be found and the trial had in either county.

SEC. 3. Every person indicted for any offence, the punishment of which may be death or confinement to hard labor for life, shall be entitled to a copy of the indictment before he is arraigned thereon; a list of the witnesses to be used on the trial, and of the jurors returned to serve on the same, with the name and place of abode of each, to be delivered to him forty-eight hours before the trial; counsel learned in the law, not exceeding two, to be assigned him by the court at his request, and who shall have access to him at all reasonable hours; liberty to make full defence by himself and counsel, and to make any proof by lawful witnesses that he may produce; and process from the court to compel such witnesses to appear and testify at the trial, such as is usually granted on behalf of the State.

SEC. 4. None of the provisions of the third section of the two hundred and twenty-fifth chapter of the revised statutes (the preceding section) shall be so construed as to preclude the State's counsel from using any witnesses to rebut or explain any evidence of new matter offered by the defendant, or to discredit his witnesses, although the names of such witnesses have not previously been furnished to the defendant: *provided, however*, that the court may, if in their opinion justice requires it, give the defendant time to answer such testimony as may be so offered by the State's counsel as aforesaid. (*Laws of 1843, chap. 34, sec. 17.*)

SEC. 5. If any person indicted for any offence which may be punishable by death or confinement to hard labor for life, shall stand mute when arraigned thereon, a jury shall forthwith be empannelled and sworn to try whether he stands mute by the providence of God, or wilfully and fraudulently. If he stands mute by the providence of God, he shall be remanded to prison, and shall not be proceeded against until he has recovered therefrom; but if he stands mute wilfully and fraudulently, the trial shall proceed and judgment be rendered as if he had pleaded not guilty; but he shall be allowed no challenge to the jurors. (*R. S., sec. 4.*)

SEC. 6. Any person indicted for murder may plead guilty of murder in the second degree, of manslaughter, or of any minor offence which is included in the indictment for murder, and if such plea be accepted by the State's counsel, judgment may be rendered upon such plea as upon a verdict finding such offence; but if the plea shall not be accepted, it may be withdrawn and a plea of not guilty entered, and, in such case, the former plea shall not operate against him on his trial. (*Laws of 1850, chap. 962, sec. 5.*)

SEC. 7. Every person arraigned and put on trial for any offence, which may be punishable by death or by confinement to hard labor for life, except when standing mute, may challenge twenty of the jurors peremptorily, and any others for sufficient cause. (*R. S., sec. 5.*)

SEC. 8. No peremptory challenge to jurors shall be allowed in behalf of the State. (*R. S., sec. 6.*)

SEC. 9. No person convicted of murder in the first degree shall be executed within one year from the day sentence of death was passed. (*Laws of 1849, chap. 855.*)

SEC. 10. The punishment of death shall be inflicted by hanging the person convicted by the neck until dead, and the execution shall take place within the walls or yard of a prison in the county in which he was convicted. The sheriff of the county shall be present, unless prevented by some unavoidable casualty, and two of his deputies to be designated by him, and he may require the attendance and aid of a military guard, or such assistants as he shall think necessary. He shall also request the presence of the attorney general or solicitor, clerks of the courts in the county, and other reputable citizens, including a physician or surgeon, not exceeding twelve; and the relations of the convict, his counsel, and such priest or clergyman as he may desire may be present, but no other person.

SEC. 11. Every convict sentenced to solitary imprisonment, shall suffer the whole thereof immediately after his commitment to the state prison, unless the directors thereof shall think that such imprisonment may endanger his life, in which case it shall be inflicted at such intervals as they may order.

SEC. 12. If any person shall be convicted of any offence at common law, the punishment of which by such common law was death, and wherein benefit of clergy has been allowed, he shall be punished therefor by fine not exceeding three thousand dollars, and by imprisonment in the common jail not exceeding two years, or by either of said punishments in the discretion of the court.

SEC. 13. If any person having been convicted of an offence punishable in any part, by confinement to hard labor or imprisonment, and having been confined or imprisoned in pursuance of a sentence thereon, shall be again convicted of any offence punishable in like manner, he shall be liable, in addition to the punishment inflicted for the first offence, to a further punishment of the same kind and amount.

SEC. 14. If any person having been twice convicted of any offence or offences punishable in any part, by confinement to hard labor for a term of years, and imprisoned in pursuance of sentences thereon, shall be again convicted of any offence punishable in like manner, he may, in addition to the punishment inflicted for a first offence, be punished by confinement to hard labor for life.

SEC. 15. In every case described in the two preceding sections, the offender may be indicted therefor, or the attorney general or

solicitor may file an information against such convict for such second or third offence, at any time before sentence; and upon proof thereof he shall be sentenced accordingly.

SEC. 16. Upon the commitment of any person to the state prison a second time, the warden shall mark in the arm of such convict, with India ink well and deeply inserted, the letters N. H. S. P., and figures denoting the year in which he is so committed, and if such mark shall be effaced, the warden shall renew the same until it be indelibly fixed.

SEC. 17. If any person shall be convicted of any offence punishable by imprisonment or confinement to hard labor for life, and shall be sentenced and imprisoned accordingly, such conviction shall be deemed a civil death; and thereupon the bonds of matrimony shall be dissolved, his property shall descend, administration upon his estate shall be granted, and all contracts to which he is a party, and all his rights, powers and liabilities of every kind shall be affected in the same manner as in case of the death of such convict.

SEC. 18. Upon the conviction of any person for an offence punishable by imprisonment or confinement to hard labor, judgment may be rendered against said convict for the costs of prosecution, and execution thereupon issued against his property.

SEC. 19. Upon any conviction for larceny, receiving or concealing stolen property, or making, uttering or passing counterfeit coin or bank bills, the court shall allow the prosecutor, out of the county treasury, a reasonable recompense for his time and expenses in such prosecution.

SEC. 20. No person, except the respondent, shall be disqualified as a witness upon the trial of any offence, by reason of any interest in the event of such trial.

SEC. 21. When an intent to defraud is necessary to constitute any offence, it shall be sufficient to allege in the indictment or information such intent generally; and proof of an intent to defraud any person or any body politic or corporate, shall be competent to support such indictment or information.

SEC. 22. Any officer who shall find any implement, article or thing made, kept, used or designed to be used in violation of law or in the commission of any offence, in the possession of or belonging to any person arrested or liable to be arrested for such offence or violation of law, shall bring such implement, article or thing before the justice or court having jurisdiction of the offence, who shall make such order respecting their custody or destruction as justice may require.

SEC. 23. If any public officer shall wilfully neglect any duty imposed upon him by law, and no penalty shall be prescribed by statute for such neglect, such public officer guilty of such neglect shall forfeit and pay a sum not exceeding thirty dollars.

SEC. 24. Whenever any person prosecuted for any offence, shall be acquitted by the petit jury, or whenever the grand jury shall

omit to find a bill of indictment against any person, for the reason of insanity or mental derangement, such jury shall certify to the court the reason of such acquittal or omission to find a bill; and the court being of opinion that the going at large of such person will be dangerous to the safety of the citizens of the State, may commit him to prison or to the insane hospital, there to remain until restored to his right mind or otherwise delivered by due course of law.

SEC. 25. Every person so committed shall be kept at his own expense, if he has estate sufficient for that purpose, otherwise at the charge of the county in which such proceedings are had.

SEC. 26. The court of common pleas for such county may discharge from confinement any such person, when it shall be made to appear to their satisfaction, that the going at large of such person will not be dangerous to the safety of the citizens and to the peace of the State.

SEC. 27. Upon the application of any friend of such insane person, said court may commit such insane person to the custody and safe keeping of such friend, the applicant first giving bond, with sufficient surety, to the judge of probate for the county, conditioned for the safe keeping of such insane person, and for the payment of all damages which any person may sustain by reason of the acts or doings of such insane person; the bond to be approved by said court and to be put in suit for the benefit of any person interested, in the same manner as other probate bonds.

SEC. 28. Any person indicted for any offence, may plead that he is *not guilty by reason of insanity* or mental derangement, and thereupon if such plea be not contested by the State's counsel, or if contested, shall be found by the jury, an order, except when the indictment is for murder, may be made as is provided by section twenty-one of the chapter of which this is an amendment (sec. 24 of this chapter.) (*Laws of 1850, chap. 962.*)

SEC. 29. When the grand jury shall refuse to indict on a complaint for murder, or when the petit jury shall acquit a person indicted for murder on account of insanity or mental derangement, or if such person, so indicted, shall plead *not guilty* by reason of insanity or mental derangement, and such plea shall not be contested by the State's counsel, or if so contested, the petit jury shall acquit for such reason, the court, before which the proceedings are had, may commit such person to the common jail or to the insane hospital, for life, or until otherwise delivered by due course of law. (*Laws of 1850, chap. 962, sec. 2.*)

SEC. 30. Any person committed to the insane asylum by virtue of this act, shall be kept there at his own expense, if he has sufficient estate for that purpose, without endangering his family to become chargeable to the town; otherwise at the expense of the county where such proceedings are had. (*Laws of 1850, chap. 962, sec. 3.*)

SEC. 31. The governor, by and with the consent of the coun-

cil, may discharge any such person from confinement when they shall be satisfied that it can be done with advantage to such person and safety to the public; and the governor, with advice of the council, may at any time transfer any person, so confined in the common jail, to the insane asylum, whenever they shall be satisfied that such transfer will be conducive to the health and comfort of such person and the welfare of the public. (*Laws of 1850, chap. 962, sec. 4.*)

TITLE XXVIII. OF IMPRISONMENT.

- CHAPTER 241. Of jails and houses of correction.
 CHAPTER 242. Of the state prison.
 CHAPTER 243. Of power of warden to borrow money.

CHAPTER 241.

OF COMMON JAILS AND HOUSES OF CORRECTION.

COMPILED FROM

Chapter 226 of the Revised Statutes.
 " 351, Laws of 1846.

SECTION

1. A jail to be kept in each county.
2. Court of common pleas to have care of jail and of prisoners.
3. Sheriff to be keeper of jail, and responsible for prisoners.
4. Sheriff shall appoint deputy jailer.
5. Jailer to provide prisoners with sustenance, clothing and necessaries.
6. Penalty for defrauding prisoners.
7. Jailer to furnish C. C. P. with list of prisoners and offences.

SECTION

8. Sheriff liable for escape through insufficiency of jail.
9. County shall indemnify sheriff.
10. United States prisoners may be confined in jail.
11. Jail to be used when no house of correction in town or county.
12. Prisoners, when may be discharged.
13. " removed in certain cases.
14. Expenses of removal paid by county.
15. Jail in Belknap and Carroll counties.

SECTION 1. There shall be kept and maintained in good repair in each county, one or more common jails, at the expense of the county.

SEC. 2. The court of common pleas shall have the care of building, inspecting and repairing such jails, and at the commence-

ment of each term shall inquire into the state thereof, as respects the security, treatment and condition of the prisoners, and shall take all necessary precautions against escape, sickness or infection.

SEC. 3. The sheriff shall have the custody of the jails in his county and of the prisoners therein, and shall keep the same personally or by deputy, for whose acts he shall be responsible.

SEC. 4. The sheriff shall appoint one or more jailers, who, in case of the absence or disability of the sheriff, or during any vacancy in the office, shall have the custody of such jail and the prisoners therein.

SEC. 5. Every jailer shall provide each prisoner in his custody with necessary sustenance, clothing, bedding, fuel and medical attendance, and the court of common pleas shall allow him, out of the county treasury, a reasonable compensation for the support of all prisoners confined on criminal process.

SEC. 6. If any jailer shall defraud any prisoner of his allowance, or shall not allow reasonable sustenance and accommodation, he shall forfeit twenty dollars for each offence, to be recovered by an action of debt by any person who will sue therefor.

SEC. 7. Every jailer, at the opening of the court of common pleas at each term in his county, shall return to said court a certified list of all prisoners then in his custody, with the time and causes of their commitment, and shall also return before the adjournment of said court, the name and cause of commitment of every prisoner committed during the session of said court. If any jailer shall neglect to make any such return, he shall pay such fine, not exceeding thirty dollars, as shall be set upon him by the court.

SEC. 8. If any prisoner committed for debt or non-payment of any forfeiture, shall escape through the insufficiency of the jail, the sheriff of the county shall be liable to the creditor or person to whose use such forfeiture was adjudged, for the full amount of the damages sustained in consequence of such escape; and the circumstances of such prisoner may be given in evidence in mitigation of damages.

SEC. 9. Every sheriff who shall be compelled to pay any sum under the preceding section, shall, on application to the court of common pleas, be indemnified therefor fully from the county treasury; and, if not so indemnified within six months after such application, he may recover the same in an action of the case against such county, with reasonable damages for his trouble, expenses and costs.

SEC. 10. Prisoners may be committed under the authority of the United States to any jail, upon payment of the expense of supporting such prisoners, fifty cents per month for the use of the jail for the county, and all legal fees of the jailer; and the sheriff shall receive such prisoners and be liable for any neglect of duty as in case of other prisoners; but the county shall in no case be liable for any escape.

SEC. 11. When there is no house of correction in any town, the county house of correction shall be used instead thereof; if there shall be neither, then the common jail of the county shall be used as such house of correction.

SEC. 12. Whenever any prisoner, under conviction for any criminal offence, shall be confined in jail for inability to pay any fine or costs, or to procure sureties, the court of common pleas in the county where such prisoner was committed, or the two justices thereof in vacation, upon satisfactory evidence of such inability, may remit such fine and costs, and discharge him from confinement, upon such terms as they may think expedient. (*R. S., sec. 12, amended by laws of 1846, chap. 351.*)

SEC. 13. Whenever, from the prevalence of any disease, or for rebuilding or repairing the jail in any county, or other cause, the sheriff shall think it expedient that the prisoners be removed therefrom, on application in writing by the sheriff, the justices of the superior court of judicature, or any two of them in vacation, may order their removal to some other jail in the same or another county, there to be detained in the same manner and by the same process as in the jail from which they were so removed, until remanded back by a similar process, or discharged according to law.

SEC. 14. All the expenses of removing and maintaining prisoners incurred under the preceding section, shall be defrayed by the county from which they are so removed.

SEC. 15. The jail in the county of Strafford shall be deemed to be the jail of the counties of Belknap and Carroll, until a jail shall be erected and completed for use in those counties respectively, and any officer of said counties may commit any prisoner in his custody to such jail until such time, and all expenses incurred in the custody and support of such prisoner shall be paid by the county from which he is committed.

CHAPTER 242.

OF THE STATE PRISON.

COMPILED FROM

Chapter 227 of the Revised Statutes.

" 89, Laws of 1844.

" 984, " " 1850.

SECTION

1. State prison to be in Concord.
2. Prison to be under care of warden.
3. Warden to give bonds.
4. Vacancy in office, how filled.

SECTION

5. Powers of governor and council.
6. Duties of the warden, what.
7. Prisoners, how committed.
8. Service and return of order.

SECTION

9. Warden to appoint a deputy.
10. Board of visitors of the prison.
11. Warden liable for escapes, when.
12. Penalty for assaulting warden by a prisoner confined for life.
13. Penalty for assaulting warden by a prisoner confined for a limited term.
14. Prisoners of United States courts received.

SECTION

15. Rewards and punishments regulated.
16. Clothes and money furnished to discharged convicts, when.
17. Convicts in custody on civil process, remedy.
18. Such convict to be detained.
19. Execution against warden, how levied.
20. If not paid, warden removed.
21. Property to be appraised.

SECTION 1. The state prison at Concord shall be the general penitentiary of the State, for the punishment and reformation of all criminals sentenced to confinement to hard labor or solitary imprisonment.

SEC. 2. The state prison shall be under the superintendence of a warden, to be chosen annually in the month of June, by joint ballot of the senate and house of representatives in convention, who shall hold his office for one year from the first day of July in said year.

SEC. 3. The warden, before entering upon the discharge of his duties, shall give bond to the State in the sum of twenty thousand dollars, with sufficient sureties, to the acceptance of the governor and council, conditioned for the faithful performance of the duties of his office.

SEC. 4. In case of any vacancy in the office of warden, the governor and council may appoint a warden, to hold his office until a new warden is chosen.

SEC. 5. The governor, with advice of the council, shall have power—

First; to appoint all officers and servants, except the warden and his deputy, necessary for the management of the prison, and to remove the same;

Second; to define the powers, duties and compensation of such officers and agents;

Third; to establish by-laws for the government of the prison;

Fourth; to provide for the purchase of all articles necessary for the use of the prison, or the health and comfort of the officers and prisoners;

Fifth; to provide for the sale of all articles manufactured in the prison, or not necessary for the use thereof;

Sixth; to make contracts, if expedient, for the support and employment of the prisoners, or any portion of them;

Seventh; to make all necessary additions, alterations and repairs within the prison or its enclosure;

Eighth; to provide a military guard for the security of the prison;

Ninth; to provide such books and other instruction as he shall deem necessary for the convict;

Tenth; to draw his warrant upon the treasurer of the State in favor of the warden, for all appropriations made by the legislature for the state prison.

SEC. 6. It shall be the duty of the warden—

First; to receive, safely keep and employ in said prison all convicts pursuant to their sentence, and until discharged according to law;

Second; to have the custody and superintendence of all persons confined in said prison, and of all property belonging thereto;

Third; to obey and enforce all orders, by-laws and regulations which may be made by the governor and council for the management of the prison;

Fourth; to command the military guard for the prison;

Fifth; to receive, pay out and be accountable for all moneys appropriated for the use of the prison, or derived from the sales of articles belonging thereto;

Sixth; to keep a regular and true account upon the books of the prison of all moneys received and expended on account of the prison, and of all its concerns;

Seventh; not to be in any case a contractor for the prison, or interested therein;

Eighth; to render to the senate and house of representatives, each, on the first Wednesday of June, annually, a full and true account of all the receipts and profits, expenses and disbursements of the prison since the last annual report, and a particular report of its management and condition. (*Laws of 1844, chap. 89.*)

Ninth; immediately upon the settlement of his account, at the close of each year, to deposit all the vouchers therefor in the office of the secretary of state for public inspection.

SEC. 7. When any convict shall be sentenced to confinement to hard labor, the court before whom such conviction may be, shall order the sheriff of the county to remove such convict to the state prison and deliver him to the warden thereof; and said sheriff or his deputy, in the execution of said order in any county through which he may pass, shall have all the rights and powers of a sheriff of such county.

SEC. 8. The clerk of said court shall deliver a copy of said conviction, judgment and order thereon, to said sheriff, who shall deliver the same, with a copy of his return endorsed thereon, to said warden, and shall make due return to said court of the service of said order upon an attested copy thereof.

SEC. 9. The warden shall by warrant under his hand appoint a deputy, for whose acts he shall be answerable, and who, in case of the absence, death, removal or resignation of the warden, shall exercise all his powers and be subject to all his duties and liabilities, until a warden is duly appointed and qualified.

SEC. 10. The governor and council, with the justices of the superior court of judicature, shall be visitors of the state prison,

and shall annually, and as much oftener as may be proper, visit the prison and see that all regulations made for the government thereof are proper and properly executed.

SEC. 11. If the warden, or any person employed in said prison, shall negligently suffer any prisoner to be at large or to be visited, comforted or relieved, contrary to the regulations of the prison or the terms of the sentence of such prisoner, he shall be punished, upon indictment and conviction thereof, by a fine not exceeding five hundred dollars.

SEC. 12. If any prisoner, under sentence of confinement to hard labor for life, shall assault the warden or any person employed in said prison, or shall forcibly attempt to break from said prison, or shall escape therefrom, he shall be punished by solitary imprisonment not exceeding six months, without affecting his first sentence in any other manner.

SEC. 13. If any prisoner, under sentence of confinement to hard labor for a limited time, shall assault the warden or any person employed in said prison, or shall forcibly attempt to escape, or shall escape therefrom, he shall be punished by solitary imprisonment not exceeding six months, or by confinement to hard labor not exceeding ten years, said punishments to commence at such time as the court before whom the conviction may be, shall direct.

SEC. 14. The warden shall receive all convicts sentenced to confinement to hard labor by any court of the United States within this State, who may be delivered to him by the marshal of the district or his deputy, and shall safely keep such convicts until discharged by due course of the laws of the United States.

SEC. 15. The warden, with the consent of the governor and council, may offer suitable encouragement and indulgences to those convicts who distinguish themselves by obedience, industry and faithfulness, and may punish any convict guilty of insolence or ill language to any officer of the prison, or of obstinate and refractory behavior, by solitary imprisonment not exceeding thirty days at one time.

SEC. 16. The warden may furnish, at the expense of the State, to each convict discharged from said prison, a cheap suit of clothes, decent and suitable for the season in which he is discharged, and a sum of money not exceeding three dollars.

SEC. 17. If any convict sentenced to confinement to hard labor or solitary imprisonment, shall at the time of such sentence be in custody of the sheriff on any civil process, mesne or final, said sheriff shall, on the delivery of such convict to the warden, leave with said warden an attested copy of such process.

SEC. 18. The warden shall detain such convict as well by virtue of such process as of his sentence, and if at the expiration of said sentence such process shall not be withdrawn, discharged, satisfied or annulled, shall still detain such convict thereon until discharged or remanded whence he came by due course of law.

SEC. 19. When judgment shall be rendered against any per-

son holding the office of warden, for any sum of money, the execution thereon shall be against his goods, chattels and lands, but not against his body; and if such execution is returned unsatisfied, the creditor may file a certified copy of such execution and the return thereon with the secretary of state.

SEC. 20. The secretary shall immediately notify said warden thereof in writing, with the day on which said copy was filed. If said execution shall remain unsatisfied for the space of ninety days after such notification, the governor and council shall forthwith remove said warden from his office, and execution may then issue against him in common form.

SEC. 21. His excellency the governor, with the advice of the council, shall appoint annually three suitable persons to appraise all the property at the state prison, belonging to the State, at its cash value. Said appraisers shall make a return of their appraisal, by them subscribed and sworn to as just and true, to the secretary of state on or before the first Wednesday of June, annually: and the secretary of state upon the receipt thereof shall lay the same before the legislature. (*Laws of 1850, chap. 984.*)

CHAPTER 243.

OF THE POWER OF THE WARDEN TO BORROW MONEY.

IDENTICAL WITH

Chapter 985, Laws of 1850.

SECTION 1. The warden of the state prison is hereby authorized to borrow, on the credit of the State, a sum not exceeding five hundred dollars at any one time, at the lowest rate of interest, and not to exceed six per cent., for the use of the prison, to be applied in the purchase of provisions, fuel, stock, raw materials and tools to be used in the prison, when in the opinion of his excellency the governor the interest of the State will be promoted thereby.

TITLE XXIX.

OF SALARIES AND FEES.

CHAPTER 244. Of salaries and compensation of certain officers.

CHAPTER 245. Of fees and costs in certain cases.

CHAPTER 244.

OF SALARIES AND COMPENSATION OF CERTAIN OFFICERS.

COMPILED FROM
Chapter 228 of the Revised Statutes.
" 34, Laws of 1843.
" 247, " " 1845.
" 857, " " 1849.
" 1128, " " 1851.
" 1288, " " 1852.

SECTION

1. Salary of governor.
2. " " secretary of state.
3. " " state treasurer.
4. " " adjutant general.
5. " " warden of state prison.
6. " " justices of superior court.
7. " " " " circuit court.
8. " " judges of the court of common pleas.
9. " " attorney general.
10. " " solicitors.
11. Compensation of solicitors.
12. Salary of judges and registers of probate.
13. " " sheriffs.
14. " " county treasurers.
15. Salaries, how paid.

SECTION

16. Sheriffs' salaries, how paid.
17. County treasurers' salaries, how paid.
18. Compensation of councillors.
19. " " president and speaker.
20. " " members of legislature.
21. " " clerks of legislature.
22. " for travel of councillors.
23. " for travel of members.
24. " above, how paid.
25. Absent members not to receive pay unless absent on account of sickness.
26. Statement of absence to be furnished to clerk.

SECTION 1. The annual salary of the governor shall be one thousand dollars.

SEC. 2. The annual salary of the secretary of state shall be eight hundred dollars, which shall be in full compensation for all services in that office, except for making and giving copies and

certificates to individuals for private use ; and all other fees allowed him by law shall be paid by him into the treasury ; and he shall render an account of the same annually to the legislature at the June session.

SEC. 3. The annual salary of the treasurer of the State shall be six hundred dollars.

SEC. 4. The annual salary of the adjutant and inspector general, performing the duties of quartermaster general, shall be four hundred dollars.

SEC. 5. The annual salary of the warden of the state prison shall be eight hundred dollars, which shall be in full compensation for all the services rendered by him in that office.

SEC. 6. The annual salary of the chief justice of the superior court of judicature shall be fourteen hundred dollars, and that of each justice of said court, twelve hundred dollars.

SEC. 7. The annual salaries of the justices of the circuit court of common pleas shall be twelve hundred dollars.

SEC. 8. The judges of the court of common pleas for the several counties in this State, shall each be paid three dollars per day for each and every day they shall attend said court in said several counties, and ten cents a mile for their travel to and from the places of holding the said several courts of common pleas. (*Laws of 1843, chap. 34, sec. 18.*)

SEC. 9. The annual salary of the attorney general shall be twelve hundred dollars.

SEC. 10. The solicitors for the several counties shall receive from the state treasury, in full compensation for the services by them rendered in the absence of the attorney general, at each term of the court of common pleas at which they shall perform his duties, upon a certificate thereof from the presiding justice, the following sums :—

In Rockingham, Hillsborough and Grafton, fifty dollars ;
In Strafford, Merrimack and Cheshire, forty dollars ;
In Belknap, Carroll, Sullivan and Coös, thirty dollars.

SEC. 11. Such solicitors shall receive for all other services by them performed, such reasonable compensation as the justices of said court may at each term direct, from the county treasury.

SEC. 12. From the first day of January, A. D. 1853, the salaries of the judges and registers of probate in the several counties shall be annually as follows :—

Of the judge of the county of Rockingham, four hundred and twelve dollars ; of the register of said county, five hundred and fifty dollars ;

Of the judge of the county of Strafford, two hundred and twenty-five dollars ; of the register of said county, three hundred dollars ;

Of the judge of the county of Belknap, one hundred and forty-

two dollars; of the register of said county, one hundred and eighty-three dollars;

Of the judge of the county of Carroll, one hundred and fifty dollars; of the register of said county, two hundred dollars;

Of the judge of the county of Merrimack, three hundred dollars; of the register of said county, four hundred dollars;

Of the judge of the county of Hillsborough, four hundred and twenty-five dollars; of the register of said county, five hundred and seventy-five dollars;

Of the judge of the county of Cheshire, two hundred and twenty-five dollars; of the register of said county, three hundred dollars;

Of the judge of the county of Sullivan, one hundred and seventy-five dollars; of the register of said county, two hundred and twenty-five dollars;

Of the judge of the county of Grafton, three hundred dollars; of the register of said county, four hundred dollars;

Of the judge of the county of Coös, one hundred and ten dollars; of the register of said county, one hundred and thirty-five dollars. (*Laws of 1852, chap. 1288.*)

SEC. 13. The annual salaries of the sheriffs of the several counties shall be as follows:—

Rockingham, three hundred thirty-four dollars;

Strafford, one hundred seventy-five dollars;

Belknap, one hundred fifty dollars;

Carroll, one hundred fifty dollars;

Merrimack, two hundred forty-five dollars;

Hillsborough, two hundred seventy-six dollars;

Cheshire, two hundred twenty-five dollars;

Sullivan, one hundred seventy-five dollars;

Grafton, two hundred seventy-five dollars;

Coös, one hundred seventy-five dollars.

SEC. 14. The annual salaries of the treasurers of the several counties shall be as follows:

Rockingham and Grafton, each, one hundred fifty dollars;

Merrimack, one hundred ten dollars;

Hillsborough, one hundred twenty-six dollars;

Strafford, Cheshire, Sullivan and Coös, each, one hundred dollars;

Belknap and Carroll, each, seventy-five dollars.

SEC. 15. The salaries of the foregoing officers, except sheriffs and county treasurers, shall be paid quarterly from the state treasury.

SEC. 16. The salaries of sheriffs shall be retained by them from the proportion of fees by law payable and paid to them by their deputies, and shall not be otherwise paid.

SEC. 17. The salaries of county treasurers shall be allowed to them, on their annual statement of the condition of the treasury of their respective counties, by the court of common pleas, and shall be in full satisfaction for all official services.

SEC. 18. The members of the council shall receive two dollars a day, each, during their sessions.

SEC. 19. The president of the senate and speaker of the house of representatives shall receive two dollars and fifty cents a day, each, during the session of the legislature.

SEC. 20. The members of the senate and house of representatives shall receive two dollars a day, each, during the session of the legislature.

SEC. 21. The clerks and assistant clerks of the senate and house of representatives shall receive two dollars and fifty cents a day, each, during the session of the legislature, and for one day more for making up the rolls and filing the papers.

SEC. 22. The members of the council shall receive, each, ten cents a mile for their travel to and from the place of their sessions.

SEC. 23. The president and members of the senate, speaker and members of the house of representatives and the clerks and assistant clerks of the senate and house, shall each receive ten cents a mile for their travel to and from the place of [the] sitting of the legislature.

SEC. 24. The compensation allowed in the six preceding sections shall be paid from the state treasury.

SEC. 25. It shall be unlawful for any member or officer of the executive council, or either branch of the legislature of this State, to receive pay for his attendance for any day on which he may have been absent during the whole sitting, unless detained from his place by sickness or specially excused from attending by a vote of the body to which he belongs. (*Laws of 1845, chap. 247.*)

SEC. 26. Every member or officer who may have been absent for any number of days during any session of the legislature, shall furnish to the clerk or officer charged with the making up of the pay-roll for the branch to which he belongs, at least one day before the close of the session, a statement of the number of days he may have been absent, and the pay-roll shall be made up accordingly. (*Laws of 1845, chap. 247.*)

CHAPTER 245.

OF FEES AND COSTS IN CERTAIN CASES.

COMPILED FROM

Chapter 229 of the Revised Statutes.

" 963, Laws of 1850.

" 1289, " " 1852.

SECTION

1. Fees of justices in civil cases.
2. " " " criminal cases.
3. " " recording and certifying officers.
4. " " clerks of courts.
5. " " attorneys in courts.
6. " " " before justices.
7. " " parties.
8. " five days' attendance only, when.
9. " for travel to county line only.
10. " " " before justices.
11. " " " upon endorsed notes.
12. " of witnesses.
13. " ferry or toll bridge how reckoned.

SECTION

14. Fees of sheriffs.
15. " " sheriffs to be endorsed.
16. " " jailers.
17. " " registers of deeds.
18. " " town clerks.
19. " " coroners and constables.
20. " " grand and petit jurors.
21. " paid on jury trials.
22. " on coroners' inquests.
23. " of secretary of state.
24. " of notaries public.
25. Penalty for taking illegal fees.
26. " how recovered.
27. Receipt to be given for fees.
28. Penalty for neglect to give receipt.

SECTION 1. Justices of the peace shall be allowed the following fees in civil cases:—

For every writ of summons or attachment with summons, seventeen cents;

For writ of subpoena, ten cents;

For the entry of every action or complaint, including filing papers, entering appearance and judgment and recording, fifty cents;

For granting an appeal, seventeen cents;

For each execution, seventeen cents;

For a writ of possession, twenty-five cents;

For entering satisfaction of a judgment on record, ten cents;

For swearing each witness and caption of deposition, thirty-four cents;

For writing deposition, each page, seventeen cents;

For travel to swear witnesses, each mile, three and a half cents;

For taking and certifying the acknowledgment of any deed or other instrument by one or more persons at one time, seventeen cents;

For granting warrant of appraisement and swearing the appraisers, twenty-five cents;

For actual trial upon issue joined, either of law or fact, fifty cents;

For administering oaths in all cases and certifying the same, except the oaths of office of town officers and oaths administered to witnesses in the trial of causes before the justice, seventeen cents;

For every adjournment, seventeen cents.

SEC. 2. Justices of the peace shall be allowed the following fees in criminal cases:—

For drawing a complaint, fifty cents;

For a warrant founded on a complaint for any offence, twenty-five cents;

For granting an appeal, seventeen cents;

For each recognizance, seventeen cents;

For taking bail of persons committed in criminal cases, for each offender, thirty-four cents;

For every examination, thirty-four cents;

For entry of complaint and judgment thereon, fifty cents;

For a warrant of commitment and every other warrant except those before mentioned, fifty cents;

For every adjournment, seventeen cents.

SEC. 3. To all recording or certifying officers, there shall be allowed for each page of two hundred twenty-four words copied or recorded, twelve and a half cents;

For any part less than a page, eight cents;

For every certificate on a copy of a whole case, ten cents.

SEC. 4. To the clerk of every court, there shall be paid the following fees:—

For the entry of every action, petition, appeal or complaint, one dollar and twenty cents, of which the clerk shall retain thirty cents, in full compensation for all services for which specific fees are not by law established;

For a blank writ and summons, or blank writ of summons, ten cents;

For a writ of review or scire facias, fifty cents;

For a writ of possession, forty cents;

For a writ of habeas corpus, seventeen cents;

For a writ of execution, seventeen cents;

For a writ of protection or subpœna, ten cents;

For entering a continuance, five cents;

For discharging a recognizance, ten cents;

For certifying the proof of a deed in court, seventeen cents;

For recording a sheriff's deputation and certificate, or a discharge from office, twenty-five cents;

For all services and fees relating to a pedler's license, one dollar.

SEC. 5. The following fees shall be allowed in bills of costs taxed in the superior court or court of common pleas :—

For the writ, including the blank, one dollar ;

For every complaint, one dollar ;

For an attorney fee, in every case of appearance by the defendant, one dollar.

SEC. 6. The following fees shall be allowed in each bill of costs taxed before a justice :—

For each writ, complaint or plea, fifty cents.

SEC. 7. Parties shall be allowed the following fees :—

For every ten miles' travel to and from court, twenty-five cents ;

For each days' attendance, twenty-five cents ;

For summoning witnesses, seventeen cents each.

SEC. 8. No more than five days' attendance shall be allowed at any term in any case where the defendant suffers default, having made no appearance.

SEC. 9. No more travel shall be allowed to any party than to the line of the county, unless in case of his appearance in person.

SEC. 10. In actions brought before justices, the plaintiff shall be allowed no more travel than if he lived within ten miles of the place of trial, unless he appears in person.

SEC. 11. In actions upon endorsed notes or negotiable paper brought by an assignee, no more travel shall be allowed than if brought by the payee, unless it shall be shown that the assignee is the plaintiff in interest.

SEC. 12. The fees of witnesses shall be, at the superior court and court of common pleas, for each day's attendance one dollar twenty-five cents ; for travel to and from court, for each mile, six cents ; before justices, for each day's attendance, sixty-five cents ; for travel to and from the place of testifying, for each mile, six cents. (*Laws of 1850, chap. 963.*)

SEC. 13. A ferry or toll bridge shall be reckoned as three miles' travel.

SEC. 14. The fees of sheriffs and deputy sheriffs shall be as follows :—

For the service of every writ, process, notice or execution, except writs of subpœna for witnesses, twenty-three cents ;

For summoning witnesses, each, seventeen cents ;

For taking bail, (to be paid by the person bailed,) seventeen cents ;

For actual travel to serve any writ, process or execution, to be reckoned from the place of service to the residence of the officer, in no case exceeding fifty miles, each mile, five cents ;

For levying executions, on the dollar, for the first fifty dollars, two and a half cents;

For the second fifty dollars, two cents;

For sums above one hundred and under three hundred dollars, one cent;

For sums above three hundred dollars, half a cent;

For attending any court by the order thereof, to be paid out of the county treasury; the sheriff, each day, two dollars;

Each deputy, one dollar and fifty cents;

For attending before justices on trials where his presence is required, each day, one dollar.

SEC. 15. The fees of every sheriff and deputy sheriff upon any writ, process or execution by him served, shall be endorsed thereon.

SEC. 16. Jailers shall be entitled to the following fees:—

For receiving any prisoner into custody or discharging him, twenty-five cents;

For the board of a prisoner, each week, one dollar and seventy-five cents. (*R. S., sec. 16; amended by laws of 1852, chap. 1289.*)

SEC. 17. Registers of deeds shall be entitled to the following fees:—

For a certificate on a deed of the time and place of recording, and for every other certificate by him made, four cents;

For examining the records at the request of any person, for each hour necessarily spent therein, twenty cents;

For discharging a mortgage on record, seventeen cents.

SEC. 18. Town clerks shall be entitled to receive for recording mortgages, for certifying thereon the time and place of recording, for every other certificate relating thereto, for examining the records and for discharging the same on the record, and recording any other discharge thereof, the same fees as registers of deeds are entitled to for like services.

SEC. 19. Coroners and constables shall be entitled to the same fees as sheriffs in like cases.

SEC. 20. Grand jurors and petit jurors shall be paid from the county treasury for each day's attendance, each, one dollar fifty cents;

For their travel to and from court, each mile, six cents;

Talesmen, for each day's attendance, one dollar fifty cents.

SEC. 21. There shall be paid by the plaintiff or appellant for the trial of every action by jury, before the trial, to the clerk for the use of the county, and to be taxed in the bill of cost of the party paying the same, five dollars.

SEC. 22. The following fees shall be allowed on the taking of each coroner's inquest, to be paid from the county treasury :—

To the coroner, for taking the same, one dollar fifty cents ;

To the jurors, each, one dollar fifty cents a day ; for travel, each mile, six cents ;

To witnesses for their attendance, each, one dollar a day ; for their travel, each, six cents a mile ;

To the constable, for summoning and attending the jury, sixty-seven cents a day and his necessary expenses.

SEC. 23. To the secretary of state shall be paid the following fees :—

For every commission for any person to an office of profit, to be paid by such person, one dollar ;

For every certificate under the seal of the State, fifty cents.

SEC. 24. Notaries public shall be entitled to the following fees :—

For every protest under seal, fifty cents ; every certificate under seal, twenty-five cents :

For waiting on a person to demand payment, or to witness any matter and certifying the same under seal, fifty cents ;

For every notice of non-payment to any party to a bill or note, twenty-five cents ;

For services relating to the taking of depositions, the same fees as justices are entitled to receive.

SEC. 25. If any person shall demand and take any greater fee for any service than is allowed by law, or any fee to which he is not by law entitled, he shall forfeit fifty dollars for each offence to the person who will sue therefor.

SEC. 26. Every such offence may be prosecuted by complaint to the grand jury and indictment, and in such case, the penalty recovered shall be for the use of the county.

SEC. 27. Every person entitled by law to any fees, shall, if requested by the person paying the same at the time of such payment, make out and deliver to him a particular statement of the items of his services, and of the sums demanded and received therefor, and receipt the same.

SEC. 28. If any such person shall neglect or refuse to give such statement and receipt, he shall forfeit for every such neglect or refusal the sum of twenty dollars, for the use of the town in which the offence may be committed.

TITLE XXX.

CHAPTER 246.

OF ACTS REPEALED.

IDENTICAL WITH

Chapter 230 of the Revised Statutes.

SECTION

1. Revised statutes, when to take effect.
2. " " how cited.
3. All statutes repugnant, repealed.
4. When repeal takes effect.
5. Repeal not to affect rights, &c.
6. " " " offences.
7. Suits not affected by repeal.
8. Officers to hold their office.

SECTION

9. No repealed act revived by repeal.
10. Repeal of statute, no evidence that such statute was in force.
11. Statute adopting other statutes, effect of repeal on.
12. Limitations not affected by repeal.
13. List of statutes repealed.

SECTION 1. All the provisions contained in the preceding chapters shall take effect and go into operation from and after the first day of March next, except only such parts thereof as to which a different provision is expressly made herein.

SEC. 2. This act shall not in any citation or enumeration of the statutes be reckoned as one of the statutes of the present session of the general court; but in all citations thereof it may be designated as the revised statutes, adding to the citation, when necessary, the number of the chapter and of the section.

SEC. 3. All acts and parts of acts, the subjects of which are revised and reenacted in the revised statutes, or which are repugnant to the provisions therein contained, shall be repealed from and after the said first day of March next, with the exceptions and limitations hereinafter expressed.

SEC. 4. In all cases where any provisions of the revised statutes are made to go into operation at any time before or after the said first day of March, the corresponding provisions, if any, of the said repealed statute, shall cease to operate when and shall continue in force until the said new provisions shall go into operation.

SEC. 5. The repeal of the acts hereinafter mentioned shall not affect any act done, or any right accruing or accrued, or acquired or established, or any suit or proceeding had or commenced in any civil case, before the time when said repeal shall take effect; but the proceedings in every such case shall be conformed, when necessary, to the provisions of the revised statutes.

SEC. 6. No offence committed and no penalty or forfeiture incurred under any of the acts hereby repealed, and before the time when such repeal shall take effect, shall be affected by the repeal, except that when any punishment, penalty or forfeiture shall be mitigated by the provisions of the revised statutes, such provisions may be extended and applied to any judgment to be pronounced after the said repeal.

SEC. 7. No suit or prosecution pending at the time of said repeal, for any offence committed, or for the recovery of any penalty or forfeiture incurred under any of the acts hereby repealed, shall be affected by such repeal, except that the proceedings in such suit or prosecution shall be conformed, when necessary, to the provisions of the revised statutes.

SEC. 8. All persons who, at the time when the said repeal shall take effect, shall hold any office under any of the acts hereby repealed, shall continue to hold the same according to the tenure thereof, except those offices which have been abolished, and those as to which a different provision shall have been made by the revised statutes.

SEC. 9. No act which has been heretofore repealed shall be revived by the repeal contained in this chapter of any of the acts therein repealed.

SEC. 10. The repeal in this chapter of any statute or part of a statute heretofore repealed, shall not be construed as a declaration or implication that such statute or part of a statute has been in force at any time subsequent to such first repeal.

SEC. 11. When any statute not herein repealed refers to and adopts any statute or part of a statute which is herein repealed, or any provision or rule of law which is abrogated or modified by the revised statutes, such statute or part of a statute, or provision or rule of law so referred to and adopted, shall not be deemed repealed by the provisions of this chapter; but shall be in force so far only as the same shall have been so adopted, and for no other purpose, and so far only as they are not repugnant to or inconsistent with the provisions of the revised statutes.

SEC. 12. In any case, when a limitation or period of time prescribed in any of the acts repealed in this chapter, for the acquiring of any right, or the barring of any remedy, or for any other purpose, shall have begun to run, and the same or any similar limitation is prescribed in the revised statutes, the time of limitation shall continue to run, and shall have the like effect as if the whole period had begun and ended under the operation of the revised statutes.

SEC. 13. All the statutes hereinafter mentioned and described by the years in which they were respectively enacted, and by their respective titles, are hereby repealed, subject to the provisions contained in the preceding sections of this chapter:

ACTS PASSED PRIOR TO 1791.

An act to prevent trespasses upon the waste lands within this State, passed November 26, 1778.

An act to authorize and empower the proprietors of any common and undivided lands to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on their said lands as they may judge necessary; and also to transact all their other common and public affairs, passed July 3, 1781.

An act for making gold and silver a tender for all debts, and for settling the depreciation of the paper currency; and for the future regulation of the courts of justice in this State, passed September 1, 1781.

An act for the encouragement of literature and genius, and for securing to authors the exclusive right and benefit of publishing their literary productions for twenty years, passed November 7, 1783.

An act to regulate ferries, passed February 28, 1783.

An act in addition to an act entitled "An act to authorize and empower the proprietors of any common and undivided lands to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on the said lands as they may judge necessary; and also to transact all their common and public affairs," passed the third of July, in the year of our Lord one thousand seven hundred and eighty-one, passed November 10, 1784.

An act to establish a seal to be used as the great seal of this State, passed February 12, 1785.

An act for the admeasurement of boards, and for regulating the sale of shingles, clapboards, hoops and staves, and for other purposes therein mentioned, passed June 21, 1785.

An act for regulating pilotage in the port of Piscataqua, passed June 22, 1785.

An act to prevent encroachments upon highways, passed February 27, 1786.

An act for regulating the gauging of casks, passed January 12, 1787.

An act in addition to an act entitled "An act for the regulating the gauging of casks," passed June 17, 1788.

An act to preserve the fish in Piscataqua river and the branches thereof, passed January 20, 1789.

An act to prevent the spreading of the small pox, for allowing hospitals to be erected under certain restrictions, and to repeal an act entitled "An act providing in case of sickness;" also an act entitled "An act to prevent the spreading of the small pox in this State," passed February 3, 1789.

An act empowering the superior court of judicature of this State to hear and try any causes respecting or relating to the forfeitures of lands within this State heretofore granted, or that may hereafter be granted, for non-performance of the conditions of such grants, to determine and give judgment therein that such forfeiture is or is not incurred, and to judge and decree as a court of chancery in certain of the causes aforesaid, passed February 6, 1789.

An act for the appointment of solicitors general, passed June 19, 1789.

An act to provide for the safe keeping, in the public jails in this State, of prisoners committed under the authority of the United States, passed January 14, 1790.

An act limiting suits on penal statutes, passed January 26, 1790.

A resolution relating to branch pilots, passed January 26, 1790.

ACTS PASSED IN THE YEAR 1791.

An act establishing forms of oaths.

An act prescribing the forms of writs in civil causes.

An act for recording proceedings before justices of the peace, and for preserving such records.

An act relating to attorneys.

An act for setting off debts, mutual demands and executions against each other.

An act for preventing trespasses.

An act to empower watchmen to apprehend and commit disorderly persons, as is hereinafter declared.

An act to restrain the taking of unlawful interest.

An act for the punishment of profane cursing and swearing.

An act to prevent incestuous marriages, and to regulate divorces.

An act directing the proceedings in case of forcible entry or detainer of lands or tenements.

An act regulating marriages, and for the registering of marriages, births and burials.

An act relative to common fields, and regulating fences.

- An act regulating swine.
- An act relative to strays and lost goods.
- An act regulating pounds.
- An act to prevent fraud in cord wood exposed to sale.
- An act for the inspection of pot and pearl ashes.
- An act directing the proceedings against deficient collectors.

ACTS PASSED IN THE YEAR 1792.

- An act to prevent common nuisances.
- An act for the repeal of a certain clause of the act for preventing the spreading of the small pox, made and passed the third day of February, Anno Domini 1789, and in addition to and amendment of the said act.
- An act to prevent obstructions and impediments to navigation in the river Piscataque and harbor of Portsmouth.
- An act to establish post guides and to facilitate travelling in and through this State.

ACT PASSED IN THE YEAR 1793.

- An act to alter and amend an act passed the twenty-eighth day of December, Anno Domini 1791, entitled "An act for the inspection of pot and pearl ashes."

ACTS PASSED IN THE YEAR 1794.

- An act directing the mode of administering oaths in certain cases.
- An act in addition to an act entitled "An act empowering the superior court of judicature of this State to hear and try any causes respecting or relating to the forfeiture of lands within this State heretofore granted, or that may hereafter be granted for non-performance of the conditions of such grants, to determine and give judgment therein that such forfeiture is or is not incurred, and to judge and decree as a court of chancery in certain of the causes aforesaid."
- An act to establish the method of computation of money in accounts and other transactions.
- An act to prevent damages being done on salt marshes in Hampton, Hampton Falls, Seabrook and South Hampton.
- An act to promote the increase of sheep in this State.
- An act to prevent the keeping of large quantities of gunpowder in private houses in Portsmouth, and for appointing a keeper of the magazine belonging to said town.

ACTS PASSED IN THE YEAR 1795.

- An act providing for the compensation of certain persons employed in apprehending and bringing to justice offenders against the laws of this State.
- An act to prevent damage being done by horses, mules and jacks.
- An act for the preservation of salmon and shad in Connecticut river.
- A resolve in relation to deficiencies in the payment of state taxes.

ACTS PASSED IN THE YEAR 1796.

- An act in addition to the laws now in force relating to proprietary matters.
- An act to declare the use of fines and forfeitures within this State.

ACTS PASSED IN THE YEAR 1797.

- An act for rendering the decision of civil causes more speedy and less expensive than heretofore.
- An act for the regulation of mills.
- An act in addition to an act regulating pounds.
- An act regulating scale beams, steel-yards, weights and measures.

ACTS PASSED IN THE YEAR 1798.

- An act in addition to the laws relating to proprietary matters.
- An act against gaming at billiards.

ACTS PASSED IN THE YEAR 1799.

- An act declaring the tenure which certain officers shall have in their respective offices.

An act to restrain unincorporated banking associations.

An act for the better observation of the Lord's day, and for repealing all the laws heretofore made for that purpose.

An act empowering the inhabitants of the town of Portsmouth to appoint health officers, and for preventing nuisances in said town.

ACTS PASSED IN THE YEAR 1801.

An act relative to the repairs of mills, mill dams and fooms owned by joint tenants, tenants in common, or occupied by two or more persons.

An act for laying a fine on town clerks and sheriffs neglecting to make seasonable returns of votes for governor, councillors and senators.

ACT PASSED IN THE YEAR 1802.

An act to regulate the inspection of butter and hog's lard intended to be exported from this State.

ACTS PASSED IN THE YEAR 1803.

An act to prevent the issuing and passing bank notes or bank bills of certain descriptions therein mentioned.

An act in addition to an act entitled "An act empowering the inhabitants of the town of Portsmouth to appoint health officers, and for preventing nuisances in said town."

ACTS PASSED IN THE YEAR 1805.

An act in addition to an act entitled "An act for the limitation of actions and for preventing vexatious suits," made and passed the sixteenth day of June, A. D. 1791.

An act to prevent the circulation of private notes, bills, orders and checks.

An act to secure to masters and apprentices bound by deed or indenture their mutual privileges.

An act to prevent damage which may be done by lumber to owners of land lying on and adjoining any river in this State.

An act for regulating the manufacture and sale of bread.

An act in addition to an act for regulating pilotage in the port of Piscataqua.

A resolve requiring papers relating to business before the legislature to be filed in the office of the secretary of state.

ACTS PASSED IN THE YEAR 1806.

An act to authorize the proprietors of turnpike roads and toll bridges to reduce their toll.

An act in addition to and amendment of certain acts heretofore passed granting turnpike incorporations.

ACTS PASSED IN THE YEAR 1807.

An act to prevent the issuing from banks as a currency certain description of bank bills, notes and obligations therein mentioned.

An act in addition to an act entitled "An act empowering the town of Portsmouth to appoint health officers, and for preventing nuisances in said town."

ACTS PASSED IN THE YEAR 1808.

A resolve relating to the tenure of office by judges and sheriffs.

An act making further provision for the administration of justice.

An act providing a remedy against the representatives of deceased parties to joint obligations and contracts.

An act regulating proprietary matters.

An act regulating the mode of putting pine timber into Connecticut river.

An act to prohibit any person from hauling or removing sea weed and rock weed from the sea shore in the towns of Hampton and North Hampton.

An act for the preservation of fish in Newfound lake in the county of Grafton.

ACT PASSED IN THE YEAR 1809.

An act directing how joint tenancies shall be created.

ACT PASSED IN THE YEAR 1810.

An act to prevent persons from digging up the bodies of dead people.

ACTS PASSED IN THE YEAR 1811.

An act to authorise towns to make by-laws to prevent horses, mules, jacks, neat cattle, sheep and swine from going at large.

An act to encourage the raising of hemp in this State.

An act respecting dogs.

An act to prevent the destruction of salmon, shad and alewives in Merrimack river and the several streams falling into the same, and for repealing certain laws heretofore made for that purpose.

An act to facilitate the passing of fish in Piscataquog river.

An act to facilitate the passing of fish in Babboosook brook.

An act for the preservation of fish in Long Pond, so called, in Concord, in the county of Rockingham.

A resolve relating to the exchange of statutes with other states.

ACTS PASSED IN THE YEAR 1812.

An act prescribing the mode of attaching on mesne process and selling on execution, shares in incorporated companies, and pews in meeting-houses and other places of public worship.

An act to remedy the loss of annual meetings.

An act in addition to the laws now in force relating to the proceedings of corporations.

ACTS PASSED IN THE YEAR 1814.

An act directing the return of statements every year from the several incorporated banks in this State to his excellency the governor and council.

An act in addition to an act entitled "An act for the better observation of the Lord's day," and for repealing all the laws heretofore made for that purpose.

An act regulating the piling, hauling and removing of sea weed and rock weed from the sea shore in the town of Rye.

An act in addition to an act entitled "An act relative to strays and lost goods," passed Feb. 9, 1791.

An act to prevent the destruction of fish in Turkey ponds, so called, in Concord, in the county of Rockingham.

An act to prevent the destruction of fish in Winnipiseegee lake, Squam pond, and the bays on the Winnipiseegee river.

ACT PASSED JUNE SESSION, 1815.

An act to prevent unjust imprisonment and to secure the privilege and benefit of the writ of habeas corpus.

ACTS PASSED JUNE SESSION, 1816.

An act to enforce the satisfaction and payment of executions against certain corporations.

An act regulating the hunting of deer.

An act to prevent fraud and deception in the packing of pickled fish, and in curing and packing smoked alewives and herrings, and to regulate the size and quality of the casks and boxes, and the sale and exportation within and from this State.

ACTS PASSED NOVEMBER SESSION, 1816.

An act to prevent the circulation and currency of certain bank bills of a denomination less than one dollar.

An act relating to the branding or marking of sheep.

An act to repeal all acts heretofore passed relative to the passage of alewives and other fish in Easternac and Tarbell's brooks, in Nottingham West, in the county of Hillsborough.

An act to prevent the destruction of fish in Rolfe's pond, so called, in Hopkinton, in the county of Hillsborough.

An act prescribing the mode of keeping records in the offices of the state and county treasurers.

An act to divide the State into districts for the choice of senators.

An act authorizing selectmen to tax the ratable estates of all ordained ministers of every denomination.

ACTS PASSED JUNE SESSION, 1817.

An act declaring the tenure and providing for the removal from office of registers of probate.

An act directing the mode of serving of writs of *scire facias* in certain cases.

ACTS PASSED JUNE SESSION, 1818.

An act requiring certain officers to file certificates of their age in the secretary's office.

An act requiring the attorney general, solicitors of the several counties, and the clerks of the several courts in this State to give bonds.

An act in addition to an act entitled "An act to prevent the circulation and currency of certain bank bills of a denomination less than one dollar," passed November 14, 1816.

An act for the preservation of alewives in Exeter river.

An act for the preservation of the fish in the several ponds within the town of Greenfield.

An act for the preservation of fish in Kezar's pond and Giles' pond in the town of Sutton in the county of Hillsborough.

An act for the preservation of alewives in Salmon Fall river.

An act to alter the first section of an act entitled "An act to prevent the destruction of salmon, shad and alewives in Merrimack river, and the several streams falling into the same, and for repealing certain laws heretofore made for that purpose," passed June 20, 1811.

An act for establishing salaries of the justices of the superior court of judicature.

A resolve granting copies of the statutes and journals to the American Antiquarian Society.

ACTS PASSED JUNE SESSION, 1819.

An act to provide for the inspection of hops for exportation.

An act in addition to an act entitled "An act for the admeasurement of boards and for regulating the sale of shingles, clapboards, hoops and staves, and for other purposes therein mentioned," passed June 21, 1785.

An act to repeal certain acts relative to the passage of fish in Salmon brook in the town of Dunstable.

An act to repeal an act relative to the passage of fish in Pennychook brook, being the line between the towns of Merrimack and Dunstable.

An act for the preservation of fish in Babboosook ponds, in the town of Amherst.

An act for the preservation of pickerel in Gorum pond, in the town of Dunbarton, in the county of Hillsborough.

An act for the preservation of pickerel in the several ponds in New London, in the county of Hillsborough.

An act for the preservation of fish in Cobet's pond, in Windham, and Policy pond, partly in Windham and partly in Salem, in the county of Rockingham.

An act to prevent obstructing the passage of fish in a certain river in Bradford.

An act for the preservation of salmon trout in Sunapee lake.

An act to prevent vexatious lawsuits, and to limit bills of costs.

An act making provision for the payment of the salaries of the justices of the superior court of judicature, and for other purposes.

ACTS PASSED JUNE SESSION, 1820.

An act for the preservation of pickerel in Massabesic pond, partly in Chester, in the county of Rockingham, and partly in Manchester, in the county of Hillsborough.

An act to provide for the appointment of inspectors and regulating the manufactory of gunpowder.

An act to prevent the introduction of paupers from foreign ports or places.

An act granting additional powers to the courts of probate and for the regulation of trustees and guardians.

A resolve granting the statutes of this State to the United States.

ACTS PASSED NOVEMBER SESSION, 1820.

An act in addition to and in amendment of an act entitled "An act to prevent the destruction of salmon, shad and alewives in Merrimack river, and the several streams falling into the same, and for regulating and repealing certain laws heretofore made for that purpose," passed June 20, 1811.

An act regulating fees and repealing certain acts relative to the same.

An act in addition to and in amendment of an act passed June session, 1820, granting additional powers to the courts of probate, and for the regulation of trustees and guardians.

ACTS PASSED JUNE SESSION, 1821.

An act to prevent frauds in the management of the business of banks and of public officers.

An act to enforce the payment of bills and notes issued by banking companies.

An act for apprehending offenders in any county.

An act to establish a literary fund to be collected from the several banking corporations within this State.

An act regulating pedlars, hawkers and showmen.

An act to prevent the destruction of beavers, minks, muskrats and otters.

A resolution requiring the acts of each session to be transmitted to the judges of the circuit court of the United States.

ACTS PASSED JUNE SESSION, 1822.

An act making provision for the sale on execution of all rights in equity of redeeming real estate mortgaged.

An act in addition to an act entitled "An act to authorize towns to make by-laws to prevent horses, mules, jacks, neat cattle, sheep and swine from going at large," passed June 17, 1811.

An act creating the office and providing for the appointment of corn and grain measurers in the town of Portsmouth.

An act defining the jurisdiction, powers and duties of a judge of probate, and the duties, exemptions and liabilities of executors, administrators and guardians in certain cases.

An act for the descent and distribution of intestate estates.

An act for the devising of real estate, the attestation, filing and recording of wills in certain cases and the distribution of testate estates.

An act regulating the settlement and distribution of insolvent estates.

An act empowering the several judges of probate to license executors, administrators and guardians to sell real estate in certain cases, and for perpetuating the evidence of such sales.

An act in addition to an act entitled "An act empowering the several judges of probate to license executors, administrators and guardians to sell real estate in certain cases, and for perpetuating the evidence of such sales."

An act regulating suits on bonds given to a judge of probate, and directing the manner in which such bonds may be taken.

An act authorizing and regulating appeals from the decisions of a judge of probate.

An act extending the powers of the justices of the superior court of judicature in certain cases.

An act to establish the rate at which bank shares shall be valued in making and assessing direct taxes.

An act establishing the law of the road.

ACTS PASSED JUNE SESSION, 1823.

An act to establish a system of police in the town of Portsmouth, and for other purposes.

An act authorizing the superior court of judicature to appoint auditors in certain cases.

ACT PASSED JUNE SESSION, 1824.

An act in addition to an act for forming, arranging and regulating the militia, passed December 22, 1820.

ACTS PASSED NOVEMBER SESSION, 1824.

An act in addition to an act entitled "An act for the descent and distribution of intestate estates," passed July 2, 1822.

An act to preserve the evidence of titles to land sold by sheriffs for state and county taxes.

An act in addition to an act entitled "An act to prevent incestuous marriages and regulate divorces."

A resolution allowing copies of the laws and journals to places having ten ratable polls.

ACTS PASSED JUNE SESSION, 1825.

An act for the limitation of actions and preventing vexatious suits.

An act regulating the service of mesne process on corporations in certain cases.

An act in addition to and amendment of an act entitled "An act to prevent persons from digging up the bodies of dead people."

An act for the preservation of pickerel in Suncook ponds, in the town of Barnstead, in the county of Strafford.

An act in addition to an act entitled "An act defining the jurisdiction, powers and duties of a judge of probate, and the duties, exemptions and liabilities of executors, administrators and guardians in certain cases."

An act authorizing an action of replevin in certain cases.

An act to prevent the disturbance of religious meetings.

An act to prevent injuries happening to the ordnance, carriages, harness and apparatus appertaining to the ordnance and gun houses belonging to the State.

An act in addition to an act entitled "An act for laying a fine on town clerks and sheriffs neglecting to make seasonable returns of votes for governor, councillors and senators."

A resolution relative to the purchase of the New Hampshire Reports annually published.

ACTS PASSED JUNE SESSION, 1826.

An act to regulate the inspection of beef and pork intended to be exported from this State.

An act for the preservation of fish in the Wash pond and in the Island pond.

An act in addition to an act entitled "An act defining the jurisdiction, powers and duties of a judge of probate, and the duties, exemptions and liabilities of executors, administrators and guardians in certain cases," passed July 2, 1822.

An act in addition to an act entitled "An act for the descent and distribution of intestate estates," passed July 2, 1822.

An act in addition to an act entitled "An act to establish a court of common pleas for the State of New Hampshire."

An act to prescribe the mode of election of representatives for this State in the congress of the United States.

An act for the regulation and government of schools in the town of Portsmouth.

An act to secure to owners their property in logs, masts, spars and other timber in Saco and Ossipee rivers in certain cases.

An act providing for the publication of the acts and journals of the legislature.

A resolution providing for the distribution of the New Hampshire Reports.

ACTS PASSED JUNE SESSION, 1827.

An act for the punishment of certain offences therein named.

An act directing the mode in which process shall be served upon towns and certain other corporations, and in which executions against towns shall be levied, and for other purposes.

An act relating to proprietary records.

An act to empower turnpike corporations to make alterations in their roads.

An act for the suppression of lotteries.

An act in addition to the acts relative to the preservation of fish in Merrimack river and its tributary streams.

An act to regulate the keeping and selling and transporting of gunpowder.

An act to provide for the maintenance of bastard children.

An act relating to the election of governor, councillors, senators and representatives.

An act for the support and regulation of primary schools.

- An act empowering school districts to build and repair school houses.
- An act to regulate the perambulation of the lines between towns.
- An act more effectually to secure to the citizens of this State their rights of suffrage.
- An act regulating towns and the choice of town officers.
- An act empowering religious associations to assume and exercise corporate powers.
- An act regulating the selection and services of grand and petit jurors.
- An act prescribing the duty and directing the mode of choosing registers of deeds and county treasurers, and providing for the payment of county expenses.
- An act authorizing the court of common pleas to liberate prisoners in the county jails in certain cases.
- An act to exempt pews in certain cases from attachment and execution, except for taxes assessed by the parish.
- An act to regulate the weighing of merchandise and other commodities.
- An act regulating licensed houses.
- An act for establishing an equitable method of making taxes.
- An act to provide for the collection of taxes assessed upon the inhabitants of towns.
- A resolution requiring the commissary general to give bond.
- A resolution providing for the distribution of the laws of the United States among towns.

ACTS PASSED JUNE SESSION, 1828.

- An act for the preservation of toll bridges.
- An act in addition to an act entitled "An act for the divising of real estate, the attestation, filing and recording of wills in certain cases, and the distribution of testate estates," passed July 2, 1822.
- An act directing the mode of choosing and appointing electors of president and vice-president of the United States.

ACTS PASSED DECEMBER SESSION, 1828.

- An act for the more speedy recovery of small debts.
- An act to declare the jurisdiction and regulate the proceedings of justices of the peace in civil and criminal cases.
- An act regulating process and trials in civil causes.
- An act for the punishment of certain crimes by solitary imprisonment and confinement to hard labor.
- An act for the punishment of lewdness, adultery, polygamy and fornication.
- An act for the punishment of certain crimes.
- An act regulating process in certain cases.
- An act relating to the settlement of paupers.
- An act for the punishment of idle and disorderly persons and for the support and maintenance of the poor.
- An act declaring the limits and boundaries of the several counties in this State.
- An act to divide the State into five districts for the choice of councillors.
- An act appropriating the literary fund.
- An act in addition to an act entitled "An act regulating scalebeams, steelyards, weights and measures."
- An act defining the powers and prescribing the duties of executors and administrators in certain cases.
- An act relating to the powers and duties of certain officers of the militia.
- An act relating to courts martial and courts of inquiry.
- An act relating to the organisation and equipment of the militia and for other purposes.
- An act imposing fines for neglect of military duty and for other purposes.
- An act relating to the election of the representatives of classed towns.
- An act for the ease and relief of poor debtors.
- An act providing for the appointment and defining the powers of commissioners of jail delivery.
- An act in addition to an act entitled "An act providing for the appointment and defining the powers of commissioners of jail delivery."
- An act defining the powers and duties of firewards and other persons in certain cases.
- An act to regulate bail in civil causes.
- An act to allow grace on bills of exchange and promissory notes according to the custom of merchants.
- An act to regulate the taking of depositions to be used on the trial of civil causes.

An act to declare the jurisdiction of the court of common pleas and of the superior court of judicature, and to regulate the proceedings in the same courts.

An act to establish salaries for the officers of the courts of probate in this State.

An act regulating prisons.

An act prescribing the times and places for holding the superior court, the court of common pleas and the courts of probate in the several counties.

An act to facilitate the collection of taxes in the town of Portsmouth.

An act authorizing the removal of incumbrances in highways.

ACTS PASSED JUNE SESSION, 1839.

An act making members of mutual fire insurance companies competent witnesses in certain cases.

An act defining the duties of county solicitors.

An act to encourage the manufacture of leather and to prevent frauds therein.

An act subjecting lands, tenements and hereditaments to the payment of debts, and directing the mode of extending and levying executions upon real and personal estate.

An act for allowing a certain premium for killing wolves, and to repeal the respective laws giving bounties for killing crows, wolves, bears and wild cats.

An act in addition to an act entitled "An act defining the jurisdiction, powers and duties of a judge of probate, and the duties, exemptions and liabilities of executors, administrators and guardians in certain cases," passed July 2, 1832.

An act defining the duties of town clerks in certain cases.

An act in addition to and in amendment of an act entitled "An act for the support and regulation of primary schools," passed July 6, 1837.

An act in addition to an act entitled "An act for the regulation and government of schools in the town of Portsmouth," passed July 7, 1826.

An act in addition to and in amendment of an act entitled "An act providing for the publication of the acts and journals of the legislature," passed July 7, 1836.

An act authorizing the superior court of judicature to make partition of real estate.

An act in addition to and amendment of an act entitled "An act regulating licensed houses," passed July 7, 1837.

An act prescribing the time and mode of redeeming real estate mortgaged, and the mode of foreclosing the right to redeem such estate.

An act directing the proceedings against trustees of debtors.

An act providing for the regulation and government of the state prison.

An act to establish times and places for holding courts of probate in the county of Hillsborough.

An act prescribing the duty and regulating the office of sheriff.

An act declaring the mode of conveyance by deed.

An act to prevent frauds and perjuries.

An act relating to the powers of public notaries, and the preservation of their records.

An act regulating the assignment of dower.

An act regulating the office of coroner.

An act to provide for the collection of taxes assessed upon the unimproved lands of non-residents.

An act for laying out highways.

An act for mending and repairing highways.

ACTS PASSED JUNE SESSION, 1880.

An act to authorize the appointment of commissioners without this State to administer oaths and take acknowledgments of deeds.

An act in addition to an act entitled "An act for the suppression of lotteries," passed July 7, 1827.

An act in addition to an act entitled "An act regulating towns and the choice of town officers," passed June 28, 1837.

An act providing for the recording of deeds of state lands in the office of secretary of state.

An act for taxing the stock of fire insurance companies.

An act in addition to an act entitled "An act for laying out highways."

An act in addition to an act entitled "An act prescribing the duty and directing the mode of choosing registers of deeds and county treasurers, and providing for the payment of county expenses."

An act relating to the assessment of taxes in certain cases.

An act relating to clerks of corporations.

An act to provide for the collection of taxes assessed upon the improved lands and buildings of non-residents.

An act authorizing the adjutant general to distribute the abstract of infantry tactics for the use of the militia.

An act in addition to an act entitled "An act defining the powers and duties of firewards and other persons in certain cases," passed December 16, 1828.

A resolution relating to the distribution of the literary fund, approved July 1, 1830.

A resolution relating to the publication of the laws in newspapers, approved July 3, 1830.

ACTS PASSED JUNE SESSION, 1831.

An act making further provision for the partition of real estate.

An act regulating the choice of moderator.

An act providing further remedies for landlords and tenants.

An act to provide for the collection of taxes in certain cases.

An act in addition to an act entitled "An act to establish a system of police for the town of Portsmouth and for other purposes," passed June 28, 1828.

An act to authorize persons to assume and exercise corporate powers in certain cases.

An act in addition to an act to regulate the inspection of beef and pork intended to be exported from this State.

An act giving further remedies in equity.

An act in addition to an act entitled "An act regulating fees, and repealing certain acts relative to the same," passed December 23, 1830.

An act in addition to an act entitled "An act the more effectually to secure the rights of suffrage to the citizens of this State."

An act in addition to an act entitled "An act appropriating the literary fund," passed December 31, 1828.

An act in addition to and amendment of an act entitled "An act for allowing a certain premium for killing wolves, and to repeal the respective laws giving bounties for killing crows, wolves, bears and wild cats," passed July 4, 1829.

An act in addition to an act entitled "An act for laying out highways," passed July 3, 1829.

An act to abolish special pleading.

A resolution relative to the appointment and duties of land commissioners, approved June 22, 1831.

A resolution authorizing the warden of the state prison to furnish clothing to discharged prisoners, approved June 22, 1831.

A resolution authorizing the secretary of state to furnish copies of statutes to unincorporated places, approved June 30, 1831.

A resolution authorizing the towns of Greenland and Newtown to elect representatives, approved July 1, 1831.

A resolution classing the towns of Dalton and Breton Woods to elect a representative, approved July 1, 1831.

A resolution relative to filing printed copies of journals of the legislature, approved July 2, 1831.

ACTS PASSED JUNE SESSION, 1832.

An act to extend to the town of New Market the acts establishing a system of police in the town of Portsmouth, and for other purposes.

An act in addition to an act entitled "An act authorizing an action of replevin in certain cases," passed June 30, 1825.

An act in addition to an act for establishing an equitable method of making taxes, passed July 7, A. D., 1827.

An act in addition to an act entitled "An act to regulate the inspection of beef and pork intended to be exported from this State, and further to regulate the inspection of mackerel."

An act allowing a certain premium for killing bears, wild cats, crows and foxes.

An act in addition to an act entitled "An act for laying out highways."

An act making further provision for laying out highways.

An act to prevent fraud in the transfer of personal property by mortgage.

An act authorizing the sheriffs of the several counties in this State to remove prisoners in the county jails in certain cases.

An act authorizing chairmen of committees in either branch of the legislature or of joint committees to swear witnesses.

An act to provide further for the collection of taxes in certain cases.

ACTS PASSED NOVEMBER SESSION, 1832.

- An act relating to the organization of the courts of justice.
- An act relating to mortgages and pledges of personal property, and property subject to any lien created by law.
- An act to authorize registers of probate to adjourn courts of probate in certain cases.
- An act regulating the survey and sale of sawed clapboards and shingles.
- An act in addition to an act regulating marriages and for the registering of marriages, births and burials, passed February 15, 1791.
- An act in addition to and in amendment of an act entitled "An act for the support and regulation of primary schools," passed July 6, 1827.
- An act regulating the office of constable.
- An act for the amendment of the law in certain cases.
- An act authorizing selectmen to tax the ratable estate of legatees and wards in the hands of executors, administrators, trustees and guardians.
- An act in addition to an act entitled "An act empowering the inhabitants of the town of Portsmouth to appoint health officers, and for preventing nuisances in said town."
- An act in addition to the several laws of this State for the ease and relief of poor debtors.
- An act to establish the rates at which polls and ratable estate shall be assessed in making direct taxes.
- An act for taxing bank stock in certain cases.
- An act requiring the warden and superintendent of the state prison to furnish bonds for the security of the State.
- An act directing the publication of the laws in certain newspapers.

ACTS PASSED JUNE SESSION, 1833.

- An act to alter the times of holding the probate court in Deerfield, Chester and Derry in the county of Rockingham.
- An act in amendment of an act to establish times and places for holding courts of probate in the county of Hillsborough.
- An act in relation to the militia.
- An act in addition to and in amendment of an act imposing fines for neglect of military duty and for other purposes, passed January 3, 1829.
- An act in addition to an act entitled "An act to establish the rates at which polls and ratable estate shall be assessed in making direct taxes," passed January 4, 1833.
- An act in amendment of an act entitled "An act to prevent encroachments upon highways," passed February 27, 1786.
- An act in addition to an act entitled "An act for the punishment of idle and disorderly persons, and for the support and maintenance of the poor," passed December 16, 1828.
- An act to regulate the weighing of beef in this State.
- An act providing for the appointment of town officers in certain cases.
- A resolution authorizing the towns of Hampton Falls, Newcastle, Centre Harbor, Temple, Brookline and Middleton to choose representatives, approved July 2, 1833.
- A resolution annexing Pinkham's Grant to the district of Jefferson, Randolph, &c., approved July 6, 1833.
- A resolution classing Jackson and Hart's Location for the choice of representative, approved July 2, 1833.

ACTS PASSED JUNE SESSION, 1834.

- An act for the equal distribution of property assigned for the benefit of creditors.
- An act regulating attachments on mesne process.
- An act in addition to and in amendment of an act entitled "An act directing the proceedings against trustees of debtors."
- An act relating to copartners, coparceners, joint tenants and tenants in common.
- An act relating to the foreclosure of mortgages.
- An act in addition to and in amendment of an act entitled "An act relating to the powers and duties of certain officers of the militia," passed January 3, 1829.
- An act in addition to an act approved July 6, 1833, entitled "An act in addition to and in amendment of an act imposing fines for the neglect of military duty and for other purposes," passed January 3, 1829.
- An act in addition to an act entitled "An act relating to the organization and equipment of the militia and for other purposes."
- An act relating to the public property in the arsenal at Portsmouth.

An act in addition to an act entitled "An act to declare the jurisdiction and regulate the proceedings of justices of the peace in civil and criminal cases," passed December 31, 1828.

An act in addition to an act entitled "An act for the amendment of the law in certain cases, passed January 5, 1833.

An act in addition to an act for the punishment of idle and disorderly persons and for the support and maintenance of the poor, passed December 16, 1828.

An act in relation to warrants of distress for taxes issued against collectors, selectmen and inhabitants of towns in certain cases.

An act to facilitate the collection of taxes.

An act in amendment of an act entitled "An act relating to the organization of courts of justice," passed the 29th day of December, in the year of our Lord, 1832.

An act in amendment of an act empowering the several judges of probate to license executors, administrators and guardians to sell real estate in certain cases, and for perpetuating the evidence of such sales.

An act in addition to an act entitled "An act to remedy the loss of annual meetings."

An act in addition to an act entitled "An act for mending and repairing highways," passed July 3, 1829.

An act relating to the competency of witnesses.

An act declaring the boundaries of certain towns.

An act in addition to an act entitled "An act allowing a certain premium for killing bears, wild cats, crows and foxes," passed June 22, 1832.

An act to prevent the destruction of pine and other forest trees.

An act more effectually to protect the sepulchres of the dead, and to legalize the study of anatomy in certain cases.

ACTS PASSED JUNE SESSION, 1835.

An act for the prevention of the small pox and for other purposes.

An act in addition to an act entitled "An act regulating peddlers, hawkers and showmen."

An act to authorize judges of probate to settle accounts in certain cases.

An act relating to the office of attorney general.

An act in addition to an act entitled "An act for the regulation and government of schools in the town of Portsmouth."

An act for the preservation of highways and bridges.

An act relating to the service of writs on towns.

An act in addition to an act passed July 6, 1828, entitled "An act empowering school districts to build and repair school houses."

An act for establishing salaries of the several county treasurers.

An act relating to the clerks of courts in the county of Merrimack.

An act in addition to an act entitled "An act directing the proceedings against the trustees of debtors."

An act to alter the limits of certain regiments of militia in this State.

An act in amendment of an act providing for the publication of the acts and journals of the legislature.

A resolution allowing the town of Atkinson to choose a representative, approved June 25, 1835.

A resolution classing Indian Stream with Clarksville, Stewartstown, &c., for the choice of representatives, approved June 27, 1835.

A resolution authorizing the secretary of state to deliver New Hampshire Reports to clerks of courts, approved June 25, 1835.

ACTS PASSED JUNE SESSION, 1836.]

An act to prevent fraud in the packing, pressing and vending of hay.

An act to protect collectors of taxes.

An act declaring the tenure and providing for the removal from office of registers of probate.

ACTS PASSED NOVEMBER SESSION, 1836.

An act to provide for the receipt of the public money of the United States which may be deposited with this State.

An act providing for the disposition of the public money of the United States which shall be deposited with this State.

An act in addition to an act entitled "An act providing for the disposition of the public money of the United States which shall be deposited with this State."

An act to establish the times and places of holding the courts of common pleas in the several counties in this State.

An act in addition to an act for the punishment of certain crimes.

An act in addition to an act entitled "An act for the punishment of idle and disorderly persons, and for the support and maintenance of the poor," passed December 16, 1828.

An act in addition to and in amendment of the several laws of this State for the ease and relief of poor debtors.

An act providing for the settlement of accounts in courts of probate where judges of probate may be interested.

An act authorizing the several judges of probate in this State to appoint guardians in certain cases.

An act in addition to and amendment of an act entitled "An act regulating process in certain cases, passed January 2, 1829.

An act in addition to an act entitled "An act authorizing the superior court of judicature to appoint auditors in certain cases."

An act providing for the assessment of damages for land taken for railroad corporations.

An act in amendment of and in addition to an act entitled "An act for laying out highways," passed July 2, 1831.

An act in addition to and in amendment of an act entitled "An act in addition to an act entitled 'An act to authorize towns to make by-laws to prevent horses, mules, jacks, neat cattle, sheep and swine from going at large,' passed June 17, 1811.

An act in amendment of an act entitled "An act to establish the rates at which polls and ratable estate shall be assessed in making direct taxes."

An act providing farther indemnity to towns for their liability on account of obstructions placed in highways.

An act enlarging the powers and duties of inhabitants of unincorporated places.

An act to secure to owners their property in logs, masts, spars and other timber in Androscoggin river.

An act in addition to an act regulating fees.

An act in addition to and in amendment of an act relating to the organization and equipment of the militia, and for other purposes, passed January 3, 1829.

An act to constitute the forty-first regiment of militia in this State.

An act requiring bond of the treasurer of the State, and for other purposes.

An act authorizing notice of petitions to be presented to the general court to be given to corporations and individuals interested.

An act in addition to and in amendment of an act directing the mode of choosing and appointing electors of president and vice-president of the United States, passed June 19, 1828.

An act in addition to an act providing for the regulation and government of the State prison.

An act to regulate the standard for the measure of oats and potatoes in this State.

An act for the preservation of bridges.

An act in addition to an act entitled "An act empowering school districts to build and repair school houses," passed July 6, 1827.

An act prohibiting the emission and circulation of bank bills of a small denomination.

An act to sever certain companies from their respective regiments and constitute them the thirty-fifth regiment.

An act in addition to and in amendment of an act entitled "An act relating to the public property in the arsenal at Portsmouth," passed July 5, 1834.

An act providing for the appointment of a public printer and prescribing his duties.

An act for the regulation and government of schools in the town of Portsmouth.

ACTS PASSED JUNE SESSION 1837.

An act relating to banks and banking, and to establish bank commissioners for the State of New Hampshire.

An act to regulate manufacturing corporations.

An act in addition to and in amendment of an act prescribing the duty and regulating the office of sheriff, passed June 29, 1829.

An act in addition to an act passed June 27, 1835, relating to the clerks of courts in the county of Merrimack.

An act pertaining to the office of register of probate for the county of Hillsborough.

An act in addition to an act entitled "An act for the ease and relief of poor debtors," passed January 3, 1829.

An act authorizing subsequent attachments of goods replevied.

An act for the assessment and better enforcing the collection of taxes in certain cases.

An act in amendment of an act entitled "An act for establishing an equitable method of making taxes," passed July 7, 1827.

An act in relation to the militia.

An act in addition to an act entitled "An act to constitute the forty-first regiment of militia in this State," passed January 3, 1837.

An act regulating the conveyance of real estate in certain cases.

An act in addition to an act entitled "An act for mending and repairing highways," passed July 8, 1829.

An act in addition to the several acts establishing a system of police in the town of Portsmouth.

An act in addition to and in amendment of an act entitled "An act for the regulation and government of schools in the town of Portsmouth," passed January 13, 1837.

An act relating to registers of probate.

An act in amendment of an act entitled "An act in addition to an act entitled 'An act authorizing the superior court of judicature to appoint auditors in certain cases,'" passed December 28, 1836.

ACTS PASSED JUNE SESSION, 1838.

An act suspending for a limited time the operation of an act entitled "An act prohibiting the emission and circulation of bank bills of a small denomination," passed January 13, 1837.

An act regulating the sale of wine and spirituous liquors.

An act for the relief of imprisoned debtors.

An act in addition to an act entitled "An act relating to attorneys," passed February, 1791.

An act relating to trust property.

An act providing for exemption in certain cases from military duty.

An act relating to the wearing apparel of deceased persons.

An act in addition to an act entitled "An act relating to banks and banking," passed July 5, 1837.

An act allowing a certain premium for killing foxes.

An act to incorporate the New Hampshire Asylum for the Insane.

An act in addition to the several laws of this State for laying out highways.

An act relating to the taxation of costs in actions of review.

An act in addition to and in amendment of an act entitled "An act to provide for the collection of taxes assessed upon the inhabitants of towns," approved July 7, 1827.

An act to prevent the disturbance of religious meetings.

An act to regulate the right of suffrage.

An act in amendment of and in addition to an act entitled "An act providing for the disposition of the public money of the United States which shall be deposited with this State," approved January 13, 1837.

An act in addition to an act regulating the office of sheriff, passed July 4, 1827.

An act for the distribution of arms among artillery companies.

An act empowering certain uniform companies to exercise corporate powers.

An act relating to the officers of infantry companies in the second regiment.

An act to enable school districts to purchase land.

An act in addition to an act in addition to and in amendment of an act imposing fines for neglect of military duty, and for other purposes.

An act in addition to and in amendment of an act entitled "An act in relation to the militia," passed July 7, 1837.

A resolution authorizing the town of South Hampton to choose a representative.

ACTS PASSED JUNE SESSION, 1839.

An act in addition to an act relating to banks and banking.

An act in addition to an act entitled "An act to regulate the taking of depositions to be used on the trial of civil causes."

An act in addition to the probate laws of this State.

An act in amendment of an act entitled "An act to regulate manufacturing corporations."

An act to regulate the granting of views in the trial of actions in certain cases.

An act in amendment of an act entitled "An act in addition to an act entitled 'An act for laying out highways,'" passed July 3, 1829.

An act in addition to an act entitled "An act relating to proprietary records," approved July 3, 1827.

An act for the preservation of the bridge across the Ammonoosuck river at Littleton village.

An act in relation to the public revenue deposited with the several towns.

An act to provide for the equitable division of the property of school districts in certain cases.

An act in addition to an act relating to the election of governor, councillors, senators and representatives, passed June 29, 1827.

An act in addition to an act entitled "An act to authorize persons to assume and exercise corporate powers in certain cases."

An act to guard against fires in the state house yard.

An act relating to students at literary institutions.

An act regulating the price of printing executed by authority of this State.

An act in addition to and in amendment of an act entitled "An act regulating fees," passed December 23, 1820.

An act in addition to and making further amendments of an act relating to the public property in the arsenal in Portsmouth, passed July 5, 1834.

An act imposing fines upon warning officers who neglect or refuse to return the company orders to them issued for warning privates and non-commissioned officers.

An act to protect elections from mistakes and frauds.

An act to regulate suits against sheriffs and other officers.

An act to abolish the office of quartermaster general.

An act providing for the division of towns into school districts, and for the alteration of the limits of school districts in certain cases.

An act in amendment to and explanatory of an act to incorporate the New Hampshire Asylum for the Insane.

An act in addition to an act entitled "An act to prevent incestuous marriages and to regulate divorces."

An act for the preservation of highways and bridges.

An act in addition to an act entitled "An act more effectually to protect the sepulchres of the dead, and to legalize the study of anatomy in certain cases," passed July 5, 1834.

An act relating to the office and duties of librarian.

An act to promote the increase of sheep in this State.

A resolution requiring the warden of the state prison annually to deposit the vouchers of his accounts in the secretary's office, approved July 6, 1839.

A resolution directing the publication of the laws in the Coös County Democrat, approved July 6, 1839.

A resolution authorizing the town of East Kingston to choose a representative, approved June 27, 1839.

ACTS PASSED JUNE SESSION, 1840.

An act in addition to an act entitled "An act to incorporate the New Hampshire Asylum for the Insane."

An act to exempt the town of Newington from the operation of the provisions of the first section of an act providing for the division of towns into school districts, and for the alteration of the limits of school districts in certain cases, passed July 6, 1839.

An act to constitute the forty-second regiment.

An act relating to railroad and other corporations.

An act to establish the times and places for holding courts of probate in the county of Coös.

An act in amendment of an act entitled "An act in addition to an act entitled 'An act for laying out highways,'" passed July 3, 1829.

An act in amendment of an act entitled "An act for the limitation of actions and preventing vexatious suits."

An act to provide for the choice of road commissioners.

An act to amend the laws regulating divorces.

An act suspending for a limited time the operations of an act entitled "An act prohibiting the emission and circulation of bank bills of a small denomination," passed January 13, 1837.

A resolution relating to the state arsenal at Lancaster.

A resolution directing the publication of the laws in the Granite State Democrat, approved June 19, 1840.

A resolution directing the mode of distribution of the journals, blanks, &c., approved June 20, 1840.

ACTS PASSED NOVEMBER SESSION, 1840.

An act to constitute the counties of Belknap and Carroll.

An act relating to primary schools.

An act providing for the admeasurement of round ship timber.

An act in addition to and in amendment of an act entitled "An act to provide for the choice of road commissioners."

An act in amendment of an act entitled "An act establishing the times and places for holding courts of probate in the county of Coös," approved June 19, 1840.

An act in addition to and amendment of an act entitled "An act relating to banks and banking and to establish bank commissioners for the State of New Hampshire," approved July 5, 1837.

An act to abolish imprisonment for debt.

An act in amendment of the laws now in force relative to the fees of trustees of debtors in actions before justices of the peace, and for other purposes.

An act in addition to the several acts relating to the assessment and collection of taxes.

An act to regulate the sale of hoops and staves.

An act to locate and authorize the erection of the New Hampshire Asylum for the Insane.

An act altering the places and establishing the times and places for holding courts of probate in the county of Grafton.

An act to render railroad corporations liable for damages by fire or steam.

An act in addition to and in amendment of an act entitled "An act regulating process and trials in civil causes."

An act regulating the piling, hauling and removing of sea weed and rock weed from the sea shore in the towns of Hampton, North Hampton and Rye.

An act in amendment of an act entitled "An act in addition to and in amendment of an act prescribing the duty and regulating the office of sheriff," passed June 29, 1829.

An act in amendment of an act entitled "An act for laying out highways," passed July 3, 1829.

An act in addition to former acts relating to the powers and duties of surgeons.

An act providing for exemption in certain cases from military duty.

An act authorizing towns to build and repair school houses in certain cases.

An act in addition to an act entitled "An act empowering school districts to build and repair school houses," passed July 6, 1827.

An act in addition to an act entitled "An act to prevent incestuous marriages and regulate divorces, and for the relief of married women and widows."

An act in addition to and in amendment of an act entitled "An act for the support and regulation of primary schools," passed January 4, 1833.

An act to amend the law relating to the transfer of personal property by mortgage.

An act establishing a new proportion for the assessment of the public taxes.

An act in addition to and amendment of an act regulating marriages and for the registering of marriages, births and burials, approved Dec. 12, 1832.

An act in addition to an act entitled "An act for the support and regulation of primary schools," passed July 6, 1827.

An act constituting a committee on the library.

An act to abolish the right to vote by proxy except in certain cases.

An act to establish the times and places of holding courts of probate in the county of Sullivan.

An act authorizing aliens to hold real estate.

An act relating to railroad corporations.

A resolution classing Pinkham's Grant with Jackson to choose a representative, approved Dec. 4, 1840.

A resolution classing the town of Carroll, Nash and Sawyer's Location, Hart's Location and Crawford's Grant to choose a representative, approved Dec. 4, 1840.

ACTS PASSED JUNE SESSION, 1841.

An act to divide the county of Grafton into two judicial districts.

An act providing further remedies against fraudulent debtors.

- An act for the punishment of frauds.
An act making further provisions in relation to trustees of debtors.
An act in addition to an act relating to the organization of courts of justice.
An act relating to judicial records.
An act relating to the compensation of county solicitors.
An act to render void the settlement of paupers gained under any law passed prior to 1796, and to prevent litigation.
An act for the more speedy settlement of insolvent estates in certain cases.
An act in addition to and in amendment of an act passed December 24, 1840, entitled "An act to prevent incestuous marriages and regulate divorces, and for the relief of married women and widows."
An act securing to mechanics and laborers a lien on buildings, ships and other vessels.
An act relating to the public money deposited with the several towns in this State.
An act to limit the liability of bank directors, and to prohibit officers of banks from receiving compensation for services in certain cases.
An act relating to railroads.
An act to prevent betting and wagering on elections.
An act establishing the fees of sheriffs for returning votes.
An act in addition to and in amendment of an act entitled "An act for the regulation and government of schools in the town of Portsmouth," approved January 13, 1837.
An act to prevent the destruction of fish in Winnipisseogee lake and the bays of the Winnipisseogee river.
An act in addition to an act entitled "An act to constitute the counties of Belknap and Carroll."
An act in addition to and in amendment of an act entitled "An act to constitute the counties of Belknap and Carroll," passed December 23, 1840.
An act in addition to an act entitled "An act to constitute the counties of Belknap and Carroll."
An act changing the place of holding one of the terms of the court of common pleas in the county of Strafford.
An act establishing the times and places of holding courts of probate in the county of Strafford.
An act altering the times and places for holding courts of probate in the county of Hillsborough.
An act changing the time of holding the court of common pleas in Coös county.
An act to divide the State into districts for the choice of senators.
An act in addition to an act entitled "An act to establish the rates at which polls and ratable estate shall be assessed in making direct taxes," approved January 4, 1833.
An act to provide further for the collection of taxes in certain cases.
An act relating to collectors of taxes.
An act in addition to an act entitled "An act relating to the public property in the arsenals at Portsmouth and Lancaster."
An act to alter the time of calling out the militia for inspection.
An act requiring a bond of the adjutant general.
An act in favor of light infantry and other companies in this State.
Resolutions authorizing the appointment of an inspector of military stores and other public property, and the mode of ascertaining deficiencies, approved July 3, 1841.
A resolution requiring the bank commissioners to examine savings banks in certain cases, and report, and authorizing the governor to appoint trustees, approved July 3, 1841.

SAMUEL SWASEY,
Speaker of the House of Representatives.

JOSIAH QUINCY,
President of the Senate.

Approved, December 23, 1842.

HENRY HUBBARD,
Governor.

RESOLUTIONS

PROVIDING FOR THE COMPILATION OF THE LAWS.

RESOLVED by the Senate and House of Representatives in General Court convened, That the governor, with the advice of council, is hereby authorized to appoint three suitable persons to compile, arrange and put into chapters, under appropriate heads, the public acts and laws now in force, including the revised statutes and the public acts and laws passed since the revision of the statutes, including the public acts of the present session, with a suitable index to the same; and, in such compilation, to omit such acts, or parts of acts, as have been repealed, and arranging such acts as have been altered by amendments, so far as can be done, and report to the legislature on the first day of the next November session thereof.

Approved, June 19, 1852.

STATE OF NEW HAMPSHIRE.

SECRETARY'S OFFICE, CONCORD, }
June 23d, 1852. }

Agreeably to a resolution of the legislature approved June 19, 1852, RALPH METCALF, of Newport, CALVIN AINSWORTH, of Concord, and SAMUEL H. AYER, of Manchester, were appointed by his excellency the governor, with advice of council, "to compile, arrange and put into chapters, under appropriate heads, the public acts and laws now in force, &c.," "and report to the legislature on the first day of the next November session thereof."

JOHN L. HADLEY, *Secretary of State.*

RESOLVED by the Senate and House of Representatives in General Court convened, That the report of the commissioners appointed in pursuance of a resolution passed at the last session of the legislature, to compile the laws, with the accompanying papers, be recommitted to the same commissioners, with instructions to proceed with the compilation and include therein the acts of the present session; and complete the same, and procure the same to be printed, with a proper index, in such way and manner as they may deem to be for the best interest of the State.

Approved, Jan. 8, 1853.

INDEX.

NOTE.—Those subjects relating to the constitutions of the United States and New Hampshire, and whatever relates to the militia, corporations, schools and other important subjects, will be found under those general heads arranged in alphabetical order.

References in the index are made to the page and section of the compilation.

- ABATEMENT** of writs not by death, 481, sec. 14, 15.
 nor by marriage of female, 481, sec. 16, 17.
 nor for misjoinder or nonjoinder, 481, sec. 12, 13.
 nor actions against stockholders for nonjoinder, 318, sec. 8.
 nor for error in form, 480, sec. 10.
 nor for suing as administrator when not, 410, sec. 10.
 nor by death of administrator, 410, sec. 11.
 to abate on representation of insolvency, 410, sec. 8.
 actions before justices of the peace, 442, sec. 10.
 of taxes by selectmen and C. C. Pleas, 128, sec. 1, 2.
 when paid in another town, 117, sec. 17.
 selectmen to assess 5 per cent. for abatement, 121, sec. 4.
- ABDUCTION**, forcible, of person, punishment, 546, sec. 15.
 attempting, punishment, 562, sec. 3.
- ABORTION**, penalty for committing, 544, sec. 11, 12.
 attempting, punishment, 545, sec. 13, 14.
- ACCESSORIES** to crimes, how punished, 562, sec. 1.
- ACCOUNT** of taxable property to be rendered by agents of corporations, 119, sec. 7.
 furnished selectmen when required, 119, sec. 4.
 sheriffs', to be made to C. C. Pleas, 456, sec. 26.
 administrators', 406, sec. 4, 5.
 auditors to state, between parties, 489, sec. 1.
 of sale for delinquent taxes, 125, sec. 7.
- ACKNOWLEDGMENT OF DEEDS**. See *Deeds*.
- ACTIVE POISONS**, sale of, to be recorded by apothecaries, 546, sec. 1.
- ACTS** of legislature, original, where deposited, 47, sec. 1.
 when to take effect, 46, sec. 29.
 list of repealed, by revised statutes, 594, sec. 13.
- ACTIONS**, personal and transitory, where brought, 468, sec. 1.
 to recover damages for land taken for highways, 142, 143, sec. 3, 5.
 against insurance companies, where brought, 468, sec. 2.
 of *scire facias* on judgment of justice of peace, where brought, 469, sec. 3.
 may be brought when levy fails, 469, sec. 4.
 between copartners, joint owners and cotenants regulated, 469, sec. 5, 6, 7.
 not to be maintained unless contract in writing, in what case, 469, sec. 8, 9, 10.
 on contract for sale of goods, in what cases to be sustained, 469, sec. 10.
 on notes, bills and drafts, not to be brought until after days of grace, 460, sec. 11.
 against prisoner for escape, 460, sec. 12.
- ACTIONS**. (*Continued*).
 against officer for default or misconduct, to be case, 480, sec. 18.
 proceedings in, to be in English language, 462, sec. 1:
 by and against wife in relation to her separate property, 882, sec. 15.
 persons under guardianship, how brought, 886, sec. 18.
 against stockholders in banks, how brought, 314, sec. 6.
 other corporations, 318, sec. 8.
 sheriffs on bonds for default, 455, sec. 19.
 coroners on bonds, 457, sec. 2.
 towns for support of pauper, 159, sec. 9, 10.
 by and against administrator, 409, sec. 1, 2, 3, 4, 5.
 on probate bonds, how brought, 428, sec. 4, 5, 6.
 non entry of plff. liable for costs on complaint, 479, sec. 1.
 nonsuit of judgment for costs, 479, sec. 2.
 special pleadings in, not necessary except before justice when title to land is in question, 482, sec. 8.
 brief statement in, may be filed instead of special plea, 482, sec. 3.
 cause of, may be confessed by defendant, 482, sec. 2.
 replications to, may be filed, 483, sec. 4.
 set-off in, when parties have mutual debts, 483, sec. 6, 7, 8.
 judgment in, when set-off filed, how rendered, 483, sec. 11.
 view of premises in real actions, 484, sec. 1.
 tender in, how made, 482, sec. 1.
 of review. See *Review*.
 abatement of. See *Abatement*.
 limitation of. See *Limitation*.
 See *Writs*.
- ADJOURNMENT** of court of probate by judge, 394, sec. 16.
 by register, 386, sec. 11.
 of courts per se and by sheriff, 459, chap. 182.
 of justice courts, 442, sec. 12.
- ADJUTANT GENERAL**, salary of, 585, sec. 4.
 See *Militia*.
- ADMINISTRATION OF ESTATES**, in what county granted, 393, sec. 7.
 how and to whom granted, 404, sec. 2.
 of persons deceased in another state, how administered here, 414, sec. 26.
 how authority to administer may be revoked, 405, sec. 10, 11.
- ADMINISTRATOR** includes executor, 404, sec. 1.
 who may be appointed, 404, sec. 2.
 not liable to arrest on cause of action against deceased, 410, sec. 12; 477, sec. 4.
 liable to arrest on execution recovered for waste, 410, sec. 13.
 not liable upon special promise unless in writing, 469, sec. 9.

ADMINISTRATOR. (Continued.)

- authority to compound claims, 407, sec. 8.
- Accounts of*, what to embrace, 407, sec. 14; 408, sec. 15.
- Actions by*, limitation of, 409, sec. 5.
- when administration suspended, 409, sec. 8.
- not to be prosecuted against, when estate insolvent, 410, sec. 8.
- except actions of review, 410, sec. 9.
- not to abate when brought by acting administrator, 410, sec. 10.
- nor by death of administrator, 410, sec. 11.
- by co-administrator against another, 411, sec. 15.
- liability to, on joint demands, 410, sec. 14.
- surviving may be prosecuted or defended, 411, sec. 18.
- of *scire facias*, if defaulted, judgment to go against estate, 411, sec. 17.
- real, may be maintained in case of insolvency if necessary, 411, sec. 19.
- real, review may be maintained by, 411, sec. 20.
- Appeal* allowed by, from commissioner, 415, sec. 8.
- not entitled to review on appeal, 416, sec. 11.
- Appointment of*, to be published, 405, sec. 14.
- Bond of*, to be given to judge of probate, 406, sec. 12.
- conditions of bond what to be, 406, sec. 12.
- sureties on, when and how discharged, 416, sec. 15.
- breach of, what declared to be, 407, sec. 11, 12; 418, sec. 12.
- suits on, nor judgments to bar suits against co-obligor, 429, sec. 14.
- Claims* against estate when to be exhibited to, 409, sec. 2, 8.
- not necessary to present to, when estate insolvent, 409, sec. 4.
- private, and debts due estate how adjusted, 407, sec. 9.
- Continuance of action* when administrator becomes party to, 411, sec. 18.
- Contingent claims* not due to be filed in probate court, 410, sec. 6.
- Duties of*, in general, 406, chap. 168.
- to give bond, 406, sec. 12.
- when residuary legatee, 406, sec. 18.
- to give notice of appointment, 406, sec. 14.
- to return inventory, 406, sec. 1.
- to account for property, 406, sec. 4, 5, 6, 7.
- to collect rents and profits, 407, sec. 10.
- to redeem property pledged or mortgaged, 407, sec. 11.
- to sell personal estate, 406, sec. 5, 6.
- to sell real estate if necessary to pay debts, 417, sec. 1.
- to fulfil contracts to convey real estate, 418, sec. 10.
- to take receipts for legacies, &c., and file same in probate office, 423, sec. 15.
- penalty for neglect to file such receipts, 424, sec. 18.
- Executor*, duty to prove will or file in probate office with refusal, 402, sec. 8.
- penalty for neglect to file will, 402, sec. 4.
- not to be executor of executor, 406, sec. 8.
- in his own wrong, when and how chargeable, 406, sec. 15.
- Executrix*, marriage extinguishes trust, 405, sec. 9.
- Heirs*, who are, 422, sec. 1, 5.
- how paid, 428, sec. 9, 12.
- receipts from, to be taken by administrator, 423, sec. 15.
- Insolvent*, when estates to be administered as such, 412, sec. 1.
- claims of administrator, how adjusted, 418, sec. 16.
- See *Insolvent Estates*.
- Real estate*, license to administrator to sell, when granted, 417, sec. 1.

ADMINISTRATOR. (Continued.)

- Real estate*, rents of, how accounted for, 407, sec. 10.
- set-off to or purchased, to vest in the heirs, 407, sec. 18.
- Removal of*, for what causes, 405, sec. 10, 11.
- Sale of real estate by*, 417, chap. 173.
- Vacancy*, how filled, 404, sec. 7.
- Waste*, what shall constitute, 407, sec. 11, 12; 418, sec. 12.
- ADULTERY** is a cause of divorce, 377, sec. 2.
- punishment of, 559, sec. 1, 2.
- ADVANCEMENTS** to be taken into consideration in the division of estates, 423, sec. 19.
- what deemed to be, 423, sec. 12.
- deeds of real estate not to be, unless, 423, sec. 11.
- ADVERTISEMENTS** of sale of non-resident land for taxes, 127, sec. 6.
- how to be posted, 128, sec. 8.
- form of, 137, sec. 7.
- AFFIRMATION** means *oath*, 45, sec. 20.
- See *Oath*.
- AGE** of consent, what to be deemed, 376, sec. 12.
- AGENTS** of towns, how appointed, 106, sec. 4.
- of corporations to give in account of taxable property, 119, sec. 7.
- list of shares and deposits, 119, sec. 9.
- penalty for neglect, 119, sec. 10.
- AGREEMENT**, when to be in writing, 459, sec. 8, 9.
- AGRICULTURAL ASSOCIATIONS** may be organized with corporate powers, 365, sec. 1.
- ALIENS** not entitled to vote, 83, sec. 5.
- penalty for voting, 89, sec. 21.
- may hold and convey real estate, 238, sec. 4.
- State claim to estate of, discharged, 238, sec. 5.
- rights of wife of, living separate, 380, sec. 4.
- forbidden to remove child forcibly from the State, the wife living separately, 381, sec. 7.
- ALIMONY** decreed to wife in case of divorce, 379, sec. 18.
- security for, may be required, 379, sec. 15.
- trustee for, may be appointed, 379, sec. 14.
- ALLOWANCE** to widow for present support, 420, sec. 1, 2.
- AMENDMENTS** of writs, declarations, process, when form only defective, 480, sec. 10.
- in matters of substance permitted on terms, 481, sec. 11.
- on nonjoinder of parties, how made, 481, sec. 18, 19.
- ANIMALS**, taxation of, 113, sec. 8.
- impounding of, 308, chap. 143.
- strays, how disposed of, 307, chap. 145.
- bounty for killing wild and noxious, 236, sec. 1, 2, 3.
- game, preservation of, 236, sec. 8.
- dogs, regulation of, running at large, 236, sec. 5.
- killing, punishment for, 549, sec. 11.
- maiming, punishment for, 550, sec. 12.
- larceny of punishment, 549, sec. 13.
- APOTHECARIES** to keep records of sale of active poisons, 546, sec. 1.
- APPAREL**, wearing, exempt from attachment, 469, sec. 2.
- of deceased persons not to be included in inventory, 406, sec. 8.
- APPEAL** by landlord or tenant, 535, sec. 17.
- from justice in case of larceny, 551, sec. 27.
- criminal cases, 553, sec. 2.
- civil cases, 442, sec. 6.
- from road commissioners, 140, sec. 8.
- from decree of judge of probate, 429, sec. 1.
- from commissioners of insolvency, 415, sec. 1, 4.
- in police offences, 264, sec. 21; 265, sec. 4.
- from police court, 444, sec. 8.
- from railroad commissioners for increase of land damages, 843, sec. 11; 849, sec. 42.
- APPORTIONMENT** of public taxes, 53, chap. 10.
- warrants of, by state treasurer, 64, sec. 2.
- APPRAISERS** of real estate on execution, 500, sec. 2.

AMOUNT DUE, \$10, 000.00.

BASTARD CHILDREN. (*Continued.*)

- respondent, how discharged when imprisoned, 164, sec. 10.
- how arrested when out of the county, 164, sec. 11, 12.
- town may prosecute complaint, 163, sec. 6.
- application to court to be made in writing, 163, sec. 6.
- may make complaint if the mother refuses, 163, sec. 7.
- complaint to be made in the name of the town, 164, sec. 8.
- respondent, if found chargeable, to give security, 164, sec. 8.
- if not chargeable, town to pay costs, 164, sec. 9.
- heirs of, who are, 423, sec. 4.
- to be heirs of their mother, 423, sec. 5.
- BATTERY.** See *Assault.*
- BEARS,** bounty for killing, 236, sec. 2.
- BEASTS** impounded may be replevied, 530, sec. 1.
- strays, how taken up and disposed of, 307, sec. 1.
- when not liable to be taken up as strays, 306, sec. 12.
- BEAVERS,** protection of, in certain seasons, 236, sec. 8.
- BEDS** exempt from attachment, 469, sec. 2.
- BEEF AND PORK,** inspection of, 226, chap. 104.
- Barrels* for beef, quality of, 227, sec. 8.
- how branded, 227, sec. 9.
- pork, quality of, 228, sec. 12.
- how branded, 228, sec. 13.
- Beef,* brands and sorts, 226, sec. 5.
- for U. S. government, 227, sec. 7.
- how salted, 226, sec. 6.
- Pork,* brands of, and sorts, 227, sec. 10; 228, sec. 13.
- Coastwise* shipments, how regulated, 230, sec. 26.
- Exportation* of beef regulated, 226, sec. 1, 2.
- pork, how regulated, 227, sec. 10.
- penalty for, without inspection, 229, sec. 22.
- Certificate* of inspection to collector, 229, sec. 19.
- to be verified by oath, 229, sec. 20.
- may be seized, when, 229, sec. 23; 230, sec. 24.
- Fees* for inspection, 229, sec. 21; 228, sec. 16.
- certificate, 229, sec. 21.
- weighing, 230, sec. 23.
- Inspector,* appointment of, 229, sec. 1.
- oath and bond of, 229, sec. 3.
- may appoint deputies, 229, sec. 4.
- oaths required, by whom administered, 229, sec. 5.
- duty of, 226, sec. 2.
- to make return to the governor, 226, sec. 3.
- vacancy, how supplied, 228, sec. 6.
- Packing* of beef and pork, how regulated, 226, sec. 4, 6; 227, sec. 10.
- Penalty* for inspecting out of limits, 228, sec. 14.
- counterfeiting brand, 228, sec. 15.
- fraud or neglect, 229, sec. 17.
- intermixing and shifting, 229, sec. 18.
- exporting without inspection, 229, sec. 22.
- buying or selling beef without being weighed, 230, sec. 23.
- Quality* of beef prescribed, 226, sec. 4.
- Sorts* of beef, how determined, 226, sec. 5.
- pork, how determined, 227, sec. 10.
- Weighers* of beef, how appointed, 230, sec. 26.
- to give certificate of weight, 230, sec. 27.
- BELKNAP COUNTY,** boundaries of, 75, sec. 9.
- jail of, where, 579, sec. 15.
- BETTERMENTS** of real estate, how determined, 491, sec. 5, 6.
- judgment for, 491, sec. 7.
- BETTING** on chances for money at cards, &c., penalty, 561, sec. 3, 4, 5.
- on elections, penalty, 38, sec. 6.
- what to be deemed, 38, sec. 7.

BETTING. (*Continued.*)

- money won by, may be recovered back, 39, sec. 8.
- BIBLES AND SCHOOL BOOKS** exempt from attachment, 469, sec. 2.
- BIGAMY,** punishment of, 559, sec. 5.
- BILLS OF COSTS.** See *Fees.*
- BILL IN EQUITY,** creditors of corporations may have, against officers and stockholders, 337, sec. 23.
- co-stockholders may have, for contribution, 314, sec. 6.
- BILLS OF EXCHANGE,** grace on, when allowed, 460, sec. 11.
- protest of, is legal notice to endorsers, 70, sec. 3.
- BILLIARD TABLES** not allowed for gaming, 561, sec. 3.
- BIRTHS, MARRIAGES AND DEATHS,** town clerk to record, 284, sec. 1.
- clerk's fees for recording, 284, sec. 1.
- births and deaths to be recorded by physicians, 284, sec. 2.
- marriages to be recorded by ministers and justices, 284, sec. 3.
- penalty for not recording, 285, sec. 4.
- BLANKS** for return of votes shall be distributed by secretary of state, 65, sec. 2.
- packages of, how distributed, 65, sec. 3.
- BLASPHEMY** defined and punished, 560, sec. 8.
- BOARD OF VISITORS OF ASYLUM,** who are, and their duties, 57, sec. 10.
- BOARDS,** survey of. See *Lumber.*
- BOOKS,** school, for poor children, how furnished, 179, sec. 14, 15.
- not to be sectarian, 178, sec. 13.
- by whom directed, 178, sec. 12.
- exempt from attachment, 469, sec. 2.
- for state library, how selected and purchased, 53, sec. 5, 6, 7.
- kept and bound, 52, sec. 3, 4.
- BOUNTY** for killing noxious and wild animals, 236, sec. 1, 2, 3.
- how paid, 236, sec. 4.
- BOUNDARIES** of counties, 73, chap. 17.
- BOWLING ALLEYS** are nuisances in certain cases, 274, sec. 10.
- when nuisances, may be removed, 275, sec. 12.
- gaming on, for money, forbidden, 561, sec. 3.
- BREACH OF THE PEACE,** penalty for, 558, sec. 1.
- BREACH OF TRUST,** penalty for, 551, sec. 26.
- BREAD,** weight of, regulated, 243, sec. 4, 5.
- BREAKING AND ENTERING BUILDINGS** with intent to commit crime, punishment, 543, sec. 6, 10.
- vessel to commit larceny, 549, sec. 9.
- BRIEF STATEMENT,** when may be filed, 492, sec. 3.
- BRIDGES** not to prevent use of rivers for boats, rafts and running timber, 136, sec. 10.
- towns may make by-laws respecting, 153, sec. 1.
- proprietors of toll bridges may make by-laws, 153, sec. 2.
- by-laws to be posted up, 153, sec. 3.
- travelled part of, to be covered with snow, 153, sec. 4.
- neglect to cover with snow, penalty, 153, sec. 5.
- burning of, penalty, 543, sec. 2.
- BUILDINGS,** tenants of, required to keep ladders and fire buckets, 264, sec. 12.
- if decayed and dangerous, firewards to repair, 265, sec. 13, 21.
- firewards may destroy to stop progress of fire, 265, sec. 15.
- demolish buildings deemed dangerous, 266, sec. 23.
- burning of, punishment, 547, sec. 1; 543, sec. 2.
- BURGLARY,** how punished, 543, sec. 6.
- in dwelling house to commit larceny, punishment, 543, sec. 7.

- BURIAL PLACE**, injury to, how punished, 560, sec. 11.
- BURNING** personal property, maliciously, penalty, 548, sec. 5.
- buildings, vessels or bridges, 548, sec. 2.
- dwelling house, punishment, 547, sec. 1.
- BUTTER AND LARD**, inspection of, 251, chap. 105.
- Brand* of casks and quality, 231, sec. 3.
- Casks*, quality and size of, 232, sec. 4.
- branding of, by owner, 232, sec. 5.
- to be saturated with brine, 232, sec. 5.
- weight of, to be marked, 232, sec. 5.
- Exportation*, not before inspected, 231, sec. 1.
- certificate required, 232, sec. 7.
- oath of inspection, 232, sec. 8.
- Fees* for inspection, 233, sec. 9.
- certificate, 232, sec. 9.
- of deputies, 232, sec. 16.
- Forfeiture*, if not inspected, 232, sec. 10.
- Inspector* includes deputy, 232, sec. 7.
- duty to inspect butter and lard, 231, sec. 1.
- Master* of vessel, oath of inspection, 232, sec. 8.
- Penalty* for exporting without inspection, 232, sec. 10.
- for neglect of duty, 232, sec. 13.
- counterfeiting brand, 232, sec. 14.
- shifting casks, 232, sec. 15.
- false marking, 232, sec. 5.
- Quality* of, 231, sec. 2.
- BY-LAWS** of towns, how made, 100, sec. 5, 8.
- long in force, 101, sec. 9.
- of common fields, 302, sec. 22.
- of voluntary associations, 303, sec. 6.
- of religious societies, 303, sec. 8.
- for houses of correction, 268, sec. 1.
- relating to dogs, 286, sec. 6.
- of proprietors of common lands, 361, sec. 1.
- of corporations relating to proxy voting, 316, sec. 17.
- CAPIAS**, writ of, form, 463, sec. 12.
- CAPITAL PUNISHMENT**, trial for, 433, sec. 3.
- two justices to sit in trial, 433, sec. 3.
- rights of prisoner, 573, sec. 3; 574, sec. 8.
- CAPTION** OF DEPOSITIONS, proceedings in, 486, sec. 20, 21.
- CARDS**, playing at, for money, how punished, 561, sec. 2.
- CARRIAGES**, taxation of, 112, sec. 3.
- CARROLL COUNTY**, boundaries of, 75, sec. 10.
- fall of, 579, sec. 15.
- CASE**, action against officer for default or misconduct to be, 460, sec. 13.
- CASHIER**. See *Banks*.
- CATTLE**, by-laws concerning, 100, sec. 7.
- damage done by, 303, sec. 1.
- strays, 307, sec. 1.
- may be impounded, when and where, 308, sec. 2.
- See *Pounds and Strays*.
- maiming of, punishment, 560, sec. 12.
- cruelty to, punishment, 560, sec. 12.
- killing of, punishment, 549, sec. 11.
- stealing of, punishment, 549, sec. 13.
- CEMETERY**, incorporation of, 365, sec. 1.
- injury to, how punished, 560, sec. 11.
- right in, exempt from attachment, 469, sec. 2.
- CEREMONY** IN SWEARING, 486, sec. 10.
- CERTIFICATE**, false making, penalty, 557, sec. 18.
- of marriage publishment to be given, 376, sec. 5.
- CHALLENGE** OF JURORS regulated, 574, sec. 7, 8.
- CHANCERY POWERS** of superior court, 434, sec. 9; 435, sec. 19, 20.
- CHARCOAL**, measurement of, 250, sec. 7.
- CHARITABLE USES**, chancery powers over, 434, sec. 9.
- property for, how holden, 363, sec. 7, 8.
- CHARTERS** of incorporations. See *Corporations*.
- CHECK LIST** of voters in school districts, used when, 171, sec. 16.
- CHECK LIST**. (Continued.)
- law relating to, may be adopted, 172, sec. 17.
- to be posted up, 87, sec. 1; 96, sec. 8.
- correction of, 87, sec. 2, 3.
- open to inspection by all citizens, 87, sec. 4.
- to be used in voting, 88, sec. 6.
- lodged with town clerk, 89, sec. 13; 96, sec. 9; 97, sec. 11.
- in classed towns, 96, sec. 9.
- See *Elections*.
- CHESHIRE COUNTY**, bounds of, 74, sec. 5.
- CHILDREN** not having a legacy, 423, sec. 13.
- posthumous, to inherit, 423, sec. 13.
- support of, under seven years of age, 414, sec. 23.
- settlement of, 157, sec. 1.
- to maintain parents when of ability, 159, sec. 8.
- when paupers may be bound out, 158, sec. 4, 5, 6.
- CITIES** may raise money for public library, 101, sec. 1.
- CISTERNS**, chief engineer to keep in repair and supplied, 357, sec. 2.
- CLAMS**, packing of, 240, sec. 23.
- CLAPBOARDS**. See *Inspection of Lumber*.
- CLERKS OF COURTS**, how appointed. See *Constitution of N. H.*
- shall be resident of the county, 80, sec. 2.
- duty to deliver secretary of state copy of county expenses, 82, sec. 8.
- certify default of town clerk for not returning votes, 81, sec. 8.
- record doings of county conventions, 84, sec. 3.
- fees for blank writs, &c., 539, sec. 4.
- to issue summons for witnesses, 434, sec. 2.
- of superior and C. C. Pleas for each county, 440, sec. 1.
- not to be register of deeds or treasurer of county, 440, sec. 2.
- to give bonds and be sworn, 440, sec. 1.
- to account to treasurer for all money received, 440, sec. 3.
- to make and deliver process to sheriff for collection of fines and forfeitures, 441, sec. 4.
- penalty for neglect, 441, sec. 4.
- shall give attested copies of records when requested, 441, sec. 5.
- shall keep their offices and records in the town where the court is held, 441, sec. 6.
- to issue venire for jurors, 447, sec. 7.
- penalty for neglect, 448, sec. 17.
- CLERKS OF CITY WARDS**, duties in drawing jurors, 449, sec. 25.
- CLERKS OF CORPORATIONS**. See *Corporations*.
- CLERKS OF SCHOOL DISTRICTS**. See *Schools*.
- CLERKS OF SENATE AND HOUSE OF REPRESENTATIVES**, fees of, 587, sec. 21.
- See *Legislature*.
- CLERKS OF TOWNS** shall notify selectmen of place and time of drawing jurors, 447, sec. 9.
- to draw names from jury box, 447, sec. 10.
- record notice and proceedings in drawing jurors, 448, sec. 13.
- shall notify jurors of their selection, 448, sec. 14.
- certify on venire the names of jurors, 448, sec. 15.
- penalty for drawing more names than is mentioned in venire, 448, sec. 20.
- to minute time of making attachment of real estate, 469, sec. 4.
- See *Town clerks*.
- CLOTHING** exempt from attachment, 469, sec. 2.
- exempt from distress for taxes, 124, sec. 5.
- to be furnished to convicts, 578, sec. 5; 583, sec. 16.
- if infected, regulations concerning, 277, sec. 2, 3; 278, sec. 11.
- of deceased person goes to the widow, 406, sec. 2.

CLOTHING. (*Continued.*)

of minors and widows not to be inventoried, 406, sec. 8.

COHABITATION, evidence of marriage upon hearing for divorce, 578, sec. 9.

after decease of one party, 583, sec. 12.

unlawful, how punished, 559, sec. 5.

when excused, 569, sec. 6.

CODICIL included in will, 45, sec. 18.**COIN**, counterfeiting of, how punished, 554, sec. 8, 9.**COLLECTOR OF TAXES**, choice of, 106, sec. 7.

oath of, 107, sec. 2.

bond of, 108, sec. 4.

vacancy, how filled, 109, sec. 6.

compensation of, 109, sec. 5.

to pay over highway tax collected in money to treasurer or selectmen, 147, sec. 13.

duties and liabilities of, 147, sec. 14.

See *Taxes*.

COLLECTION OF TAXES. See *Taxes*.**COMMISSIONS.** See *Constitution of New Hampshire*.**COMMISSARY GENERAL.** See *Constitution of N. H.***COMMISSIONERS OF BANKS.** See *Banks*.**COMMISSIONERS OF COUNTY ROADS.** See *Highways*.**COMMISSIONERS OF INSOLVENT ESTATES**, 412, sec. 1.**COMMISSIONERS OF RAILROADS.** See *Railroads*.**COMMISSIONERS OF STATE LANDS**, how appointed, their duties and compensation, 53, chap. 7.**COMMISSIONERS IN OTHER STATES**, appointment of, 70, sec. 9.

oath of, and to be filed in the office of secretary of state, 70, sec. 10.

powers and duties of, 70, sec. 11.

effect of acts of, 70, sec. 12.

COMMISSIONER OF SCHOOLS. See *Schools*.**COMMON LANDS.** See *Proprietors of common lands*.**COMMON PLEAS.** See *Court of common pleas*.**COMMON FIELDS**, fences of, 302, sec. 21.

taxes of, how assessed, 302, sec. 22.

lines of, 302, sec. 23.

COMPENSATION OF OFFICERS. See under each.**COMPUTATION OF MONEY**, 40.

of time, 45, sec. 25; 539, sec. 3.

CONCEALING property to defraud creditors, punishment, 550, sec. 20, 21, 22.

stolen property, how punished, 550, sec. 17, 18.

death of bastard child, punishment, 544, sec. 9.

CONFESSION of damages of suit, 482, sec. 2.

of debt regulated, 537, sec. 17.

record of, to be made by justice, 538, sec. 18.

execution to issue upon, 537, sec. 17.

how served, 538, sec. 19.

CONGRESSIONAL DISTRICTS. See *Districts*.**CONSTABLES**, choice of, 106, sec. 7.

bond of, 109, sec. 4.

to warn town meetings, 102, sec. 5.

to notify town officers, 107, sec. 4.

penalty for neglect, 107, sec. 5.

powers and duties of, 547, sec. 5.

actions on bonds of, 457, sec. 4.

See of, 591, sec. 19.

CONSTITUTION OF THE UNITED STATES.

Account of receipts and expenditures of public money to be published, 6, art. 1, sec. 9.

Acts, records and judicial proceedings, full faith and credit to be given to, 10, art. 4, sec. 1.

manner of proof of, prescribed by Congress, 10, art. 4, sec. 1.

Ambassadors to be nominated by the president, 9, art. 2, sec. 2.

shall be received by the president, 9, art. 2, sec. 3.

shall be received by the president, 9, art. 2, sec. 3.

CONSTITUTION OF THE UNITED STATES.

(*Continued.*)

Ambassadors, in all cases affecting, judicial power of the United States shall extend to, 9, art. 2, sec. 2.

in all cases affecting, supreme court to have original jurisdiction, 10, art. 3, sec. 2.

Amendments to the constitution, how proposed and made, 11, art. 5.

Appointments of certain officers, how made, 9, art. 2, sec. 2.

Armies, congress shall have power to raise and support, 6, art. 1, sec. 8.

the president to be commander-in-chief of, 8, art. 2, sec. 2.

Arms, right to keep and bear, not to be infringed, 12, 2d amend.

Arrest, senators and representatives privileged from, when, 4, art. 1, sec. 6.

Arsenals, congress to exercise exclusive legislation over, 6, art. 1, sec. 8.

Arts, congress to promote the progress of, 5, art. 1, sec. 8.

Assemble peaceably, right of the people to, not to be abridged, 12, 1st amend.

Attainder, no bill of, or ex post facto law, to be passed, 6, art. 1, sec. 9.

no state to pass bill of, 7, art. 1, sec. 10.

of treason, not to work corruption of blood, or forfeiture, except, 10, art. 3, sec. 8.

Authentication of records, acts and judicial proceedings of states, 10, art. 4, sec. 1.

Authors, exclusive rights of, to their writings, 6, art. 1, sec. 8.

Ball, excessive, not to be required, 13, 8th amend.

Ballot, electors of president and vice president to vote by, 13, 12th amend.

Bankruptcy, congress to establish uniform laws on the subject of, 5, art. 1, sec. 8.

Bills for raising revenue to originate in the house of representatives, 5, art. 1, sec. 7.

of credit, no state to emit, 7, art. 1, sec. 10.

Bill, when to become a law, 6, art. 1, sec. 7.

presentation to and approval by the president, 5, art. 1, sec. 7.

proceedings on, if not approved, 5, art. 1, sec. 7.

if not returned within ten days, to become a law, unless, 5, art. 1, sec. 7.

every order, resolution or vote except, to be presented to the president, 5, art. 1, sec. 7.

Blood, no attainder of treason to work corruption of, except, 10, art. 3, sec. 8.

Breach of the peace, a senator or representative may be arrested for, 4, art. 1, sec. 6.

Bribery, all civil officers to be removed from office on impeachment for and conviction of, 9, art. 2, sec. 4.

Buildings, certain needful, congress to have exclusive jurisdiction over, 6, art. 1, sec. 8.

Capital crime, no person to be held to answer for, unless, 12, 5th amend.

Capitation, or other direct tax, not to be laid, unless, 6, art. 1, sec. 9.

no amendment affecting preceding clause to be made prior to 1808, 11, art. 6.

Captures, congress to make rules concerning, 6, art. 1, sec. 8.

Census, when and how to be taken, 3, art. 1, sec. 2.

no capitation or other direct tax to be laid, unless in proportion to, 6, art. 1, sec. 9.

no amendment affecting preceding clause to be made prior to 1808, 11, art. 6.

Citizens of each state entitled to all privileges, &c., of citizens in the several states, 10, art. 4, sec. 2.

Civil officers to be removed from office on impeachment, &c., 9, art. 2, sec. 4.

Commerce, congress to regulate, 6, art. 1, sec. 8.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

Commerce, no preference to be given to the ports of one state over those of another, by any regulations of, 6, art. 1, sec. 9.

Common defence, the constitution established to provide for, 2, preamble.

Congress to provide for, 6, art. 1, sec. 8.

Common law, in suits at, above twenty dollars, the right of trial by jury to be preserved, 13, sec. 7.

Confederation, no state to enter into, 7, art. 1, sec. 10.

Congress of the United States, all legislative powers granted by the constitution vested in, 2, art. 1, sec. 1.

to consist of a senate and house of representatives, 2, art. 1, sec. 1.

shall direct the manner in which the enumeration of the people shall be made, 8, art. 1, sec. 2.

may make or alter regulations prescribing times, places, &c., of holding elections for senators and representatives, except, 4, art. 1, sec. 4.

when to assemble, and how often, 4, art. 1, sec. 4.

each house shall be the judge of elections, &c., of its own members, 4, art. 1, sec. 5.

a majority of each house shall constitute a quorum to do business, 4, art. 1, sec. 5.

a smaller number may adjourn from day to day, 4, art. 1, sec. 5.

may be authorized to compel attendance of absent members, 4, art. 1, sec. 5.

each house may determine the rules of its proceedings, &c., 4, art. 1, sec. 5.

each house shall keep a journal, and publish the same, except, 4, art. 1, sec. 5.

yeas and nays to be entered on the journal, when, 4, art. 1, sec. 5.

neither house to adjourn for more than three days without the consent of the other, nor to any other place, &c., 4, art. 1, sec. 5.

all bills for raising revenue shall originate in the house of representatives, 6, art. 1, sec. 7.

the senate may propose or concur with amendments, 5, art. 1, sec. 7.

every bill shall be presented to the president for his approval, 5, art. 1, sec. 7.

proceedings on, if not approved, 5, art. 1, sec. 7.

every order, resolution or vote to be presented to the president for his approval, 5, art. 1, sec. 7.

Congress shall have power to—

lay and collect taxes, duties, imposts and excises, 5, art. 1, sec. 8.

pay the debts and provide for the common defence of the United States, 5, art. 1, sec. 8.

borrow money, 5, art. 1, sec. 8.

regulate commerce, 5, art. 1, sec. 8.

establish uniform rule of naturalization and bankrupt laws, 5, art. 1, sec. 8.

coin money, regulate its value and of foreign coin, 5, art. 1, sec. 8.

fix the standard of weights and measures, 5, art. 1, sec. 8.

provide for the punishment of counterfeiting coin, &c., 5, art. 1, sec. 8.

establish post offices and post roads, 5, art. 1, sec. 8.

promote the progress of science and the useful arts, 5, art. 1, sec. 8.

constitute tribunals inferior to the supreme court, 5, art. 1, sec. 8.

define and punish piracies, felonies and other offences, 6, art. 1, sec. 8.

declare war, grant letters of marque, &c., 6, art. 1, sec. 8.

raise and support armies, 6, art. 1, sec. 8.

provide and maintain a navy, 6, art. 1, sec. 8.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

Congress shall have power to—

make rules for the government and regulation of the land and naval forces, 6, art. 1, sec. 8.

provide for calling forth the militia in certain cases, 6, art. 1, sec. 8.

provide for organizing, arming and disciplining the militia, 6, art. 1, sec. 8.

exercise exclusive jurisdiction over the seat of government of the United States, 6, art. 1, sec. 8.

exercise like authority over places purchased for forts, magazines, arsenals, dock yards and other needful buildings, 6, art. 1, sec. 8.

make all laws necessary for carrying into execution powers vested by the constitution, 6, art. 1, sec. 8.

may determine the time of choosing the electors, 8, art. 2, sec. 1.

may provide for the case of a vacancy in the offices of president and vice-president, 8, art. 2, sec. 1.

may vest the appointment of inferior officers in the president, courts of law or heads of departments, 9, art. 2, sec. 2.

shall have power to declare the punishment of treason, 10, art. 8, sec. 3.

may prescribe the manner in which acts, records, &c., shall be proved, 10, art. 4, sec. 1.

may admit new states into the union, 10, art. 4, sec. 3.

shall have power to dispose of and make rules respecting the territory and other property of the United States, 11, art. 4, sec. 3.

shall propose amendments to the constitution; or call a convention, 11, art. 5.

shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, 12, 1st amend.

shall make no law abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition, &c., 12, 1st amend.

Constitution, for what purposes ordained and established, 2, preamble.

how amended, 11, art. 5.

debts contracted before the adoption of, valid, 11, art. 6.

together with the laws of the United States and treaties, shall be the supreme law of the land, 11, art. 6.

judges in every state to be bound thereby, 11, art. 6.

oath or affirmation taken to support, 11, art. 6.

ratification of nine states sufficient for the establishment of, 12, art. 7.

enumeration of certain rights in, not to be construed to deny or disparage others, 13, 9th amend.

not to be so construed as to prejudice any claims of the United States or of a state, 11, art. 4, sec. 8.

Consuls, appointment of, 9, art. 2, sec. 2.

judicial power shall extend to all cases affecting, 9, art. 3, sec. 2.

Contracts, no state shall pass laws impairing the obligation of, 7, art. 1, sec. 10.

Controversies, what, the judicial power shall extend to, 9, art. 3, sec. 2.

to what the judicial power shall not extend, 13, 11th amend.

Conventions for proposing and ratifying amendments, 11, art. 5.

of nine states sufficient, 12, art. 7.

Counterfeiting, congress to provide for the punishment of, 5, art. 1, sec. 8.

Courts, congress shall have power to constitute inferior tribunals, 5, art. 1, sec. 8.

judicial power vested in supreme court and inferior courts, 9, art. 3, sec. 1.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

Credit, no state shall emit bills of, 7, art. 1, sec. 10.
 shall be given in each state to acts, records, &c., of another state, 10, art. 1, sec. 1.
Crime, person charged with, fleeing from justice, to be delivered up, 10, art. 4, sec. 2.
 no person held to answer to, unless on a presentment or indictment, 12, 5th amend.
 officers to be removed for, 9, art. 2, sec. 4.
 trial of, shall be by jury; where held, 10, art. 3, sec. 2.
Criminal prosecutions, rights of the accused, 12, 6th amend.
Death of president and vice-president, 3, art. 2, sec. 1.
Debts of the United States, congress shall have power to pay, 6, art. 1, sec. 8.
 gold and silver coin a tender in payment of, 7, art. 1, sec. 10.
Defence, common, congress to provide for, 5, art. 1, sec. 8.
Direct tax and representatives, how apportioned, 3, art. 1, sec. 2.
 or capitation tax, not to be levied, unless, 6, art. 1, sec. 9.
Discoveries, exclusive right to, secured by inventors, 5, art. 1, sec. 8.
Disqualification to hold office after judgment or impeachment, 4, art. 1, sec. 3.
Deck yards, congress shall exercise exclusive legislation over, 6, art. 1, sec. 8.
Duties, congress shall have power to levy, 5, art. 1, sec. 8.
 imposts and excises shall be uniform, 5, art. 1, sec. 8.
 no state shall levy, except, 7, art. 1, sec. 10.
 net produce of, so levied, for use of United States treasury, 7, art. 1, sec. 10.
 state laws respecting, subject to revision of congress, 7, art. 1, sec. 10.
 not to be laid on articles exported from any state, 6, art. 1, sec. 9.
Effects, right of the people to be secure in, 12, 4th amend.
Election, in case of vacancies in representation, executive to issue writs of, 3, art. 1, sec. 2.
 of president and vice-president, how made, 7, art. 2, sec. 1.
 of president and vice-president, how made, 12, 12th amend.
Electors, qualifications of, 2, art. 1, sec. 2.
 of president and vice-president, appointment, qualification, &c., 7, art. 2, sec. 1.
 of president and vice-president, appointment, qualification, &c., 12, 12th amend.
Enumeration to be made within three years after first meeting of congress, 3, art. 1, sec. 2.
Equality, the judicial power shall extend to all cases in, 9, art. 3, sec. 2.
Excises, congress shall have power to lay, 5, art. 1, sec. 8.
 shall be uniform throughout the United States, 5, art. 1, sec. 8.
Executive of any state shall issue writs of election to fill vacancies, 3, art. 1, sec. 2.
 of a state may make temporary appointments to fill vacancies in senate, 3, art. 1, sec. 3.
 power vested in a president and vice-president, 7, art. 2, sec. 1.
 officers to take oath or affirmation to support the constitution, 11, art. 6.
Expenditures, statement of, to be published, 6, art. 1, sec. 9.
Ex post facto law shall not be passed, 6, art. 1, sec. 9.
 by any state, 7, art. 1, sec. 10.
Felonies, congress shall have power to define and punish, 6, art. 1, sec. 8.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

Felony, a senator or representative may be arrested for, 4, art. 4, sec. 6.
 person charged with, to be delivered up on demand, 10, art. 4, sec. 2.
Fines, excessive, shall not be imposed, 12, 5th amend.
Forfeiture, no attainder of treason shall work, except, 10, art. 3, sec. 3.
Ports, congress shall exercise exclusive jurisdiction over, 6, art. 1, sec. 8.
Freedom of speech and of the press, congress shall not abridge, 12, 1st amend.
Fugitives from justice shall be delivered up, 10, art. 4, sec. 2.
 from labor shall be delivered up, 10, art. 4, sec. 2.
Government, seat of, established, 6, art. 1, sec. 8.
Habeas corpus, writ of, not to be suspended, unless, 6, art. 1, sec. 9.
House of representatives, congress to consist of, and a senate, 3, art. 1, sec. 1.
 how composed, and members how chosen, 2, art. 1, sec. 2.
 qualifications of electors, 2, art. 1, sec. 2.
 shall choose their speaker and other officers, 3, art. 1, sec. 2.
 shall have the sole power of impeachment, 3, art. 1, sec. 2.
 bills for raising revenue shall originate in, 5, art. 1, sec. 7.
Houses, right of the people to be secure in, 12, 4th amend.
Impeachment, house of representatives shall have the sole power of, 3, art. 1, sec. 2.
 the senate shall have the sole power to try, 3, art. 1, sec. 2.
 how tried, and effect of judgment in cases of, 3, art. 1, sec. 2.
 in cases of conviction, president shall not pardon, 3, art. 2, sec. 2.
 civil officers to be removed on, and conviction, 3, art. 2, sec. 4.
Importation of persons, prior to 1808, shall not be prohibited; but, 6, art. 1, sec. 9.
 no amendment prior to 1808 shall effect preceding clause, 11, art. 6.
Imposts, congress shall have power to lay, 5, art. 1, sec. 8.
 shall be uniform, 5, art. 1, sec. 8.
 no state shall lay without consent of congress, 7, art. 1, sec. 10.
Indians not taxed, 3, art. 1, sec. 2.
 congress shall have power to regulate commerce with, 5, art. 1, sec. 8.
Jeopardy, no person for the same offence shall be twice put in, 12, 5th amend.
Judges of the supreme court, how appointed, 3, art. 2, sec. 2.
 to hold their offices during good behavior, 3, art. 3, sec. 1.
 shall receive a compensation for their services, 3, art. 1, sec. 1.
 shall be bound by the constitution, laws and treaties, 11, art. 6.
Judicial power, how vested, 3, art. 3, sec. 1.
 shall extend to what cases, 3, art. 3, sec. 2.
 shall not extend to what cases, 12, 11th amend.
 proceedings of every state to have full faith, credit, proof, &c., 10, art. 4, sec. 1.
 officers shall be bound by oath or affirmation to support the constitution, 11, art. 6.
Jury, trial of all crimes, except, shall be by, 10, art. 3, sec. 2.
 trial by, in suits at common law, shall be preserved, 12, 7th amend.
Law of nations, offences against, congress shall define and punish, 6, art. 1, sec. 8.
 without due process of, no person shall be deprived of life, liberty or property, 12, 5th amend.
Letters of marque and reprisal, congress shall have power to grant, 6, art. 1, sec. 8.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

Letters of marque and reprisal, no state shall grant, 7, art. 1, sec. 10.
Magazines, congress shall exercise exclusive legislation over, 8, art. 1, sec. 8.
Measures, congress shall fix the standard of, 5, art. 1, sec. 8.
Migration of persons prior to 1808 shall not be prohibited, but, 6, art. 1, sec. 9.
Militia, congress shall have power to provide for calling forth, when, 6, art. 1, sec. 8.
 congress shall have power to provide for organizing, arming, &c., 6, art. 1, sec. 8.
 president shall be commander-in-chief of, when, 8, art. 1, sec. 2.
 necessary to the security of a free state, 12, 2d amend.
Ministers, public, how appointed, 9, art. 2, sec. 2.
 shall be received by the president, 9, art. 2, sec. 3.
Money, congress shall have power to borrow, 6, art. 1, sec. 8.
 coin, regulate the value thereof, &c., 5, art. 1, sec. 8.
 shall not be drawn from the treasury, except, 6, art. 1, sec. 9.
 no state shall coin, 7, art. 1, sec. 10.
Naturalization, congress shall have power to establish a uniform rule of, 5, art. 1, sec. 8.
Navy, congress shall have power to provide and maintain, 6, art. 1, sec. 8.
 president shall be commander-in-chief of, 8, art. 2, sec. 2.
 congress may make rules for the government of, 8, art. 1, sec. 8.
New states may be admitted by the congress, 10, art. 4, sec. 3.
Nobility, no title of, shall be granted by the United States, 6, art. 1, sec. 9.
 not granted by any state, 7, art. 1, sec. 10.
Oath or affirmation, president shall take, 8, art. 2, sec. 1.
 what officers bound by, 11, art. 6.
Office of profit or trust, no person holding, shall accept of any present, emolument, &c., without, 6, art. 1, sec. 9.
Officers shall be removed on impeachment and conviction, 9, art. 2, sec. 4.
 bound by oath or affirmation to support the constitution, 11, art. 6.
Papers, right of the people to be secure in, 12, 4th amend.
Pardons, president shall have power to grant, 8, art. 2, sec. 2.
People, rights of, peaceably to assemble, shall not be abridged, 12, 1st amend.
 to keep and bear arms, not to be infringed, 12, 2d amend.
 to be secure in their person, papers, &c., 12, 4th amend.
Petition, congress shall make no laws abridging the right of, 12, 1st amend.
Prerogatives, congress shall have power to define and punish, 6, art. 1, sec. 8.
Ports of one state to have no preference over those of another, 6, art. 1, sec. 9.
Post offices and post roads, congress shall have power to establish, 5, art. 1, sec. 8.
Prerogatives not delegated or prohibited, are reserved to the state or to the people, 13, 10th amend.
Present, no officer to receive from any king, prince or foreign state, 6, art. 1, sec. 9.
President of the United States, when tried for impeachment, chief justice shall preside, 4, art. 1, sec. 3.
 bills presented to, for approval, 5, art. 1, sec. 7.
 executive power vested in, 7, art. 2, sec. 1.
 term of office, 7, art. 2, sec. 1.
 how chosen, 7, art. 2, sec. 1.
 how chosen, 13, 12th amend.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

President of the United States, eligibility of, 8, art. 2, sec. 1.
 in case of vacancy in the office of, who to discharge the duties and powers of, 8, art. 2, sec. 1.
 compensation of, 8, art. 2, sec. 1.
 shall take oath or affirmation to support the constitution, 8, art. 2, sec. 1.
 commander-in-chief of the army, navy and militia, 8, art. 2, sec. 2.
 may require the written opinion of certain officers, 8, art. 2, sec. 2.
 may make treaties with the concurrence of the senate, 9, art. 2, sec. 2.
 shall appoint certain officers, with the consent of the senate, 9, art. 2, sec. 2.
 general duties of, 9, art. 2, sec. 3.
 removed from office, when, 9, art. 2, sec. 4.
Press, freedom of, not to be abridged, 12, 1st amend.
Private property not to be taken for public use without just compensation, 12, 5th amend.
Property of the United States, congress shall have power to dispose of, 11, art. 4, sec. 3.
Public acts, records and judicial proceedings to have full faith and credit, 10, art. 4, sec. 1.
Punishments, cruel and unusual, shall not be inflicted, 13, 8th amend.
Ratification of the conventions of nine states sufficient, 12, art. 7.
Receipts and expenditures, a statement and account of, shall be published, 6, art. 1, sec. 9.
Records, full faith and credit shall be given, 10, art. 4, sec. 1.
Religion, congress shall make no law respecting establishment of, 12, 1st amend.
Religious test shall not be required as a qualification to any office, 11, art. 6.
Representation, in case of vacancies in, the executive shall issue writs of election, 3, art. 1, sec. 2.
Representatives, qualifications of, 2, art. 1, sec. 2.
 how apportioned, 3, art. 1, sec. 2.
 not to be appointed to civil office in certain cases, 4, art. 1, sec. 6.
 shall hold no office under the United States, during, &c., 4, art. 1, sec. 6.
 shall not be electors of president and vice-president, 7, art. 2, sec. 1.
 congress shall consist of a senate and house of, 2, art. 1, sec. 1.
 to be chosen every second year by the people, 2, art. 1, sec. 2.
 qualifications of electors of, 2, art. 1, sec. 2.
 and direct taxes, how apportioned, 3, art. 1, sec. 2.
 number of, not to exceed one for every thirty thousand persons, 3, art. 1, sec. 2.
 number of, allowed in first congress, 3, art. 1, sec. 2.
 compensation of, 4, art. 1, sec. 6.
 privileged from arrest, 4, art. 1, sec. 6.
 shall not be questioned for any speech or debate in the house, 4, art. 1, sec. 6.
 shall be bound by oath or affirmation to support the constitution, 11, art. 6.
Reprisals, the president shall have power to grant, 8, art. 2, sec. 2.
Revenue, bills for raising, shall originate in the house of representatives, 5, art. 1, sec. 7.
Science and useful arts, congress shall have power to promote the progress of, 5, art. 1, sec. 8.
Searches and seizures, right of the people to be secure against, 12, 4th amend.
Senate, the vice-president shall be president of, 3, art. 1, sec. 3.
 shall choose their other officers, 3, art. 1, sec. 3.
 how composed, 3, art. 1, sec. 3.

CONSTITUTION OF THE UNITED STATES.

(Continued.)

Senate shall have the sole power to try impeachments, 3, art. 1, sec. 3.
 judgment of, in cases of impeachment, 4, art. 1, sec. 3.
 power of, in relation to treaties and appointments, 9, art. 2, sec. 2.
Senators, qualifications of, 3, art. 1, sec. 3.
 shall not be electors of president and vice-president, 7, art. 2, sec. 1.
 divided into three classes, 3, art. 1, sec. 3.
 seats of, when vacated, 3, art. 1, sec. 3.
 compensation of, 4, art. 1, sec. 6.
 privileged from arrest, 4, art. 1, sec. 6.
 shall not be questioned for any speech or debate in the senate, 4, art. 1, sec. 6.
 shall be bound by oath or affirmation to support the constitution, 11, art. 6.
Soldiers shall not be quartered in any house, without, 12, 3d amend.
Speech, members of congress shall not be questioned for, 4, art. 1, sec. 6.
 congress shall make no law abridging the freedom of, 12, 1st amend.
States forbidden to do certain acts, 7, art. 1, sec. 10.
 new, how formed and admitted, 10, art. 4, sec. 3.
 a republican form of government guaranteed to, 11, art. 4, sec. 4.
 protected against invasion, and domestic violence, 11, art. 4, sec. 4.
Suits at common law, right of jury trial preserved, 13, 7th amend.
Supreme court, jurisdiction of, 10, art. 3, sec. 2.
Taxes, direct, and representatives, how apportioned, 3, art. 1, sec. 2.
 congress shall have power to lay and collect, 5, art. 1, sec. 8.
Tender, no state shall make anything but gold and coin a, 7, art. 1, sec. 10.
Territory of the United States, congress shall have power to dispose of, 10, art. 4, sec. 3.
Title of nobility not to be granted, 8, art. 1, sec. 9.
Tonnage, no state shall lay any duty of, without, 7, art. 1, sec. 10.
Treason, of what it shall consist, 10, art. 3, sec. 3.
 no person shall be convicted of, unless, 10, art. 3, sec. 3.
Treaties, president, with consent of the senate, shall have power to make, 3, art. 2, sec. 2.
Trials shall be by jury, except, 10, art. 3, sec. 2.
Vice President, how elected, 12, 12th amend.
 qualifications of, same as of the president, 14, 12th amend.
 when he shall exercise the office of president, 3, art. 2, sec. 1.
 when he shall exercise the office of president, 13, 12th amend.
 shall be removed on impeachment and conviction, 9, art. 2, sec. 4.
War, congress shall have power to declare, 6, art. 1, sec. 8.
 no state shall engage in, unless, 7, art. 1, sec. 10.
Warrants shall not issue, but upon probable cause, supported by oath or affirmation, 3d, 12, 4th amend.
Weights and measures, congress shall have the power to fix the standard of, 5, art. 1, sec. 8.
Writings, exclusive right to, secured by authors, 8, art. 1, sec. 8.
Writ of habeas corpus, not to be suspended, unless, 6, art. 1, sec. 9.

CONSTITUTION OF NEW HAMPSHIRE, 15.

Acts of legislature, enacting style of, 39, sec. 92.
 to be published, 23, sec. 24.
 to be approved by governor, 31, sec. 44.
Accused, rights of, 19, sec. 16; 20, sec. 17.
Address, removal by, 33, sec. 73; 33, sec. 63.
Adjournment of house of representatives, 23, sec. 19.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Adjournment of legislature by governor and council, 30, sec. 43; 32, sec. 50.
 of senate, 23, sec. 33.
Adjutant general, appointment of, 31, sec. 43.
Affirmation, form of, 33, sec. 84.
Allegiance, oath of, 33, sec. 84.
Amendment of property qualification, 25, sec. 14.
 of representative, 25, sec. 14.
 of senators, 27, sec. 29.
 of governor, 30, sec. 43.
 of bills by senate, 23, sec. 18.
 of constitution to be approved by two-thirds of voters, 40, sec. 96.
 proclamation of, 42.
 convention for, how called, 40, sec. 99.
Appeal from justices in civil cases, 36, sec. 77.
 from judges of probate, 36, sec. 73.
Appointment, executive, 31, sec. 46, 47.
 how signed, 31, sec. 47.
Army, standing, dangerous to liberty, 21, sec. 25.
Arms, not to be borne by subjects against their conscience, 19, sec. 13.
 public account of, to be reported to governor, 33, sec. 67.
Arrest, members of legislature exempt from, 23, sec. 21.
Attorney general, how appointed, 31, sec. 45.
Bail, not to be excessive, 22, sec. 33.
Bills, appropriation, to originate in the house of representatives, 23, sec. 18.
 passed by general court to be signed by governor, 31, sec. 44.
 or returned with his objections, 31, sec. 44.
 not returned by governor, when to become laws, 31, sec. 44.
Bribery, persons convicted of, not to be members of legislature, 40, sec. 96.
Classed towns for representatives, 25, sec. 10.
Clerks of courts, how appointed, 37, sec. 32.
 not to act as attorney, 37, sec. 32.
 duty to sign writs, 38, sec. 37.
Commissary general, how chosen, 35, sec. 67.
 to report to governor, 33, sec. 57.
Commissions, what, to be issued by governor, 31, sec. 43.
 shall be in the name of the State, 33, sec. 86.
 and signed by the governor, 33, sec. 85.
 shall have the State seal, 33, sec. 86.
Common law, how far in force, 39, sec. 90.
Computation of money, 40, sec. 97.
Conscience, rights of, 17, sec. 4; 19, sec. 13.
Constitution, fundamental principles of, 23, sec. 88.
 amendments of, 40, sec. 96.
 how approved, 40, sec. 99.
 sense of voters on revision of, 40, sec. 99, 100.
 how enrolled, 41, sec. 101.
 proclamation of, 41.
Contempt of house of representatives, 23, sec. 22.
 of senate, and of governor and council, 23, sec. 23.
Convention to revise constitution, how called, 40, sec. 99.
 delegates, how chosen, 40, sec. 99.
Coroners, how appointed, 31, sec. 46.
Council, election of, when and how, 34, sec. 63.
 votes for, how certified and returned, 34, sec. 60.
 how convened, 34, sec. 62.
 vacancies, how filled, 34, sec. 61, 62.
 impeachment of members, how tried, 34, sec. 63.
 proceedings of, to be recorded, 34, sec. 64.
 records of, open to inspection, 34, sec. 64.
 districts, how formed, 35, sec. 65.
 legislative election of, may be adjourned, 35, sec. 63.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Council to have negative on governor, when, 81, sec. 47.
 compensation of, how provided, 84, sec. 58.
 what officers shall not be members of, 40, sec. 95.

Committees may be distrusted for registration of deeds, 86, sec. 72.

County treasurer, how chosen, 85, sec. 71.

Court, superior, jurisdiction of, in criminal cases, 20, sec. 17.
 not to demand excessive bail, 22, sec. 33.
 judges of, tenure of office, 22, sec. 35; 36, sec. 73.
 ought to be impartial, 22, sec. 35.
 ought to have honorable salaries, 22, sec. 35; 34, sec. 59.
 may be consulted by governor and council and legislature, 86, sec. 74.

Crimes, charge of, against offender to be definite, 19, sec. 15.
 criminals to be tried where committed, 20, sec. 17.
 not to be tried after acquittal, 19, sec. 16.
 right of trial by jury on charge of, 19, sec. 15, 16.
 in trial of venue, changed, when, 20, sec. 17.

Debate, freedom of, 21, sec. 30.

Deodands not recognized, 39, sec. 39.

Economy is an essential virtue, 22, sec. 33.

Education to be encouraged, 37, sec. 53.

Elections to be free and equal, 19, sec. 11.
 of senators, how and when, 27, sec. 27.
 qualified voters in, 27, sec. 30, 31.
 of representatives in general court, 25, sec. 10, 11, 12, 13.
 of councillors, 34, sec. 60.
 of governor, 30, sec. 41.
 meetings for, how holden and conducted, 28, sec. 32.
 certificates of, to be transmitted to sheriff and secretary of state, 28, sec. 32.
 of secretary, treasurer and commissary general, 35, sec. 67.

Enactments, style of, 39, sec. 32.

Estates of persons committing suicide not forfeited, 39, sec. 39.

Ex post facto laws prohibited, 21, sec. 23.

Fines, excessive, forbidden, 22, sec. 33.

Ports, reports in relation to, 35, sec. 57.

Freedom of conscience, 17, sec. 4; 19, sec. 13.
 of the press essential to liberty, 21, sec. 23.
 of speech essential to the rights of the people, 21, sec. 30.

General court, supreme legislative power of, 23, sec. 2.
 when to assemble, 23, sec. 3.
 may be convened by governor, when, 32, sec. 50.
 place of session of, may be changed by governor, when, 30, sec. 43.
 shall be dissolved by governor, when, 30, sec. 43.
 may be adjourned by governor, when, 30, sec. 43; 32, sec. 50.
 style of, 23, sec. 3.
 powers of, to establish courts of record, 23, sec. 4, 5.
 to enact laws, ordinances and statutes, 23, sec. 5.
 to make valuations, how often, 24, sec. 6.
 bills and resolves passed by, to be signed by governor, 31, sec. 44, 45.
 to take effect notwithstanding veto, 31, sec. 44, 45.
 to call convention, when, 40, sec. 99.

Government, form of, independent and sovereign, 23, sec. 1.
 how enrolled, 41, sec. 101.
 originates from the people, 17, sec. 1.
 security of, morality and piety, 18, sec. 6.
 instituted for the common benefit of all, 19, sec. 10.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Government, essential powers of, what are, 23, sec. 37.

Governor, meetings for choice of, how conducted, 28, sec. 32.
 how tried, when impeached, 30, sec. 40.
 to be supreme executive magistrate, 30, sec. 41.
 when and how chosen, 30, sec. 42.
 votes for, how returned and counted, 30, sec. 42.
 voters for, qualification of, 30, sec. 42.
 office of, who eligible to, 30, sec. 42; 40, sec. 95.
 powers of in relation to meetings of general court, 30, sec. 43; 32, sec. 40, 50.
 to sign bills and resolves, 31, sec. 44, 45.
 veto power of, how exercised, 31, sec. 44.
 appointing power of, 31, sec. 45.
 how to be exercised, 31, sec. 46, 47.
 to remove on address, 33, sec. 53; 36, sec. 73.
 to issue commissions, when, 31, sec. 48.
 to sign commissions, 33, sec. 86.
 office of, when vacant, how filled, 32, sec. 49.
 to be commander-in-chief of army and navy, 32, sec. 51.
 powers of, to proclaim martial law, 32, sec. 51.
 not to transport inhabitants out of the State, 32, sec. 51.
 pardoning power of, 33, sec. 52.
 to draw warrants on treasury, when and how, 33, sec. 56.
 reports to, by certain public officers, when and what, 33, sec. 57.
 excluded from holding any other office, 39, sec. 93.
 not to receive pension or salary from other government, 39, sec. 93.
 compensation of, how provided, 34, sec. 58.

Governor and Council, power of, to punish disorderly conduct, 26, sec. 22, 23.
 to examine votes for senators, 28, sec. 33.
 to notify senators elected, 28, sec. 33.
 what officers to be appointed by, and how, 31, sec. 46, 47.
 in nomination and appointment to have a negative on each other, 31, sec. 47.
 may prorogue or adjourn general court, when, 30, sec. 43; 32, sec. 50.
 may assemble general court, when, 32, sec. 50.
 pardoning power of, 33, sec. 52.
 compensation of, how provided, 34, sec. 58.
 may remove judges on address, 33, sec. 73.
 may require the opinion of the judges of the superior court, 30, sec. 74.
 power in relation to warrants on treasury, 33, sec. 56.
 may punish contempts, 26, sec. 23.

Habeas corpus, privileges of, shall be enjoyed in ample manner, 39, sec. 91.
 not to be suspended except in urgent cases, 39, sec. 91.

Happiness, all men have a natural right to seek, 17, sec. 2.

House of representatives, apportionment of, 24, sec. 9.
 members of, elected annually, 24, sec. 9; 25, sec. 12.
 in classed towns, how chosen, 25, sec. 10.
 in towns of less than 150 ratable polls, 25, sec. 11.
 to be chosen by ballot, 25, sec. 14.
 qualification of, 25, sec. 14.
 compensation of, how paid, 25, sec. 15.
 exempt from arrest, 26, sec. 21.
 vacancies in, how filled, 25, sec. 16.
 power of, to impeach, 25, sec. 17.
 quorum of, for doing business, 23, sec. 20.
 are judges of their own elections, 23, sec. 22.
 to choose their own speaker, 23, sec. 22.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

House of representatives, power to punish for disorderly conduct, 26, sec. 22.
 Journals and proceedings of, to be printed and published, 26, sec. 24.
 yeas and nays to be recorded, 26, sec. 24.
 protest to be recorded, when, 26, sec. 24.
 adjournment of, 26, sec. 19.
 to have a negative on the senate, 23, sec. 2.
 to originate money bills, 26, sec. 18.
Imprisonment by order of house of representatives, 26, sec. 22.
 by order of senate, and governor and council, 26, sec. 23.
Impeachment by house of representatives, 26, sec. 17.
 to be tried by senate, 25, sec. 17.
 trials on, how conducted, 23, sec. 38.
 judgment on, 30, sec. 39.
 of governor, chief justice of the superior court to preside on trial of, 30, sec. 40.
 of councillors, how tried, 34, sec. 63.
Indictments, where to be found and tried, 20, sec. 17.
 conclusion of, 39, sec. 88.
 to be plain and distinct, 19, sec. 15.
Inhabitants, what are qualified voters, 27, sec. 28, 30, 31.
 to hold office, 27, sec. 27, 30.
 of plantations and unincorporated places, rights of, 27, sec. 31.
Institutions of learning, arts and sciences to be encouraged, 37, sec. 83.
Journals of both houses of legislature to be printed and published, 26, sec. 24.
Judges, appointment of, 31, sec. 46.
 removal of, 39, sec. 73.
 tenure of office, 22, sec. 35; 36, sec. 78.
 ought to have permanent and honorable salaries, 22, sec. 35; 34, sec. 59.
 be impartial, 22, sec. 35.
 not to be of counsel, 37, sec. 79.
 opinions of, may be required, by whom, 36, sec. 74.
Judicial officers, how appointed, 31, sec. 46.
 tenure of office of, 36, sec. 73; 37, sec. 78.
 how removed, 38, sec. 73.
 not to act as attorneys, 37, sec. 79.
Judiciary power, how vested, 36, sec. 76, 77.
Jury, right of trial by, 19, sec. 15; 20, sec. 20.
Jurors, who ought to be, 20, sec. 21.
Justices of the peace, how appointed, 31, sec. 46.
 tenure of office of, 36, sec. 75.
 commissions of, may be renewed, 36, sec. 75.
 jurisdiction in civil cases, 36, sec. 77.
 right of appeal from, 36, sec. 77.
Justices of the superior court, jurisdiction of, 36, sec. 76.
 to appoint their clerks, 37, sec. 82.
 not to hold any other office, 39, sec. 98.
 not to receive any pension or salary from any other government, 39, sec. 98.
 See *Judges and Judicial officers, Constitution*.
Justice, all subjects entitled to, without delay, 19, sec. 14.
Law martial regulated, 22, sec. 34; 32, sec. 51.
Laws to be made by the people through their representatives, 19, sec. 12; 23, sec. 2.
 to be an equal protection, 19, sec. 14.
 retrospective forbidden, 21, sec. 23.
 not to be suspended without consent of legislature, 21, sec. 29.
 impartial interpretation of, essential to liberty, 22, sec. 85.
 previous, to be in force until when, 39, sec. 90.
 enacting style of, 39, sec. 92.
Legislature to assemble and make laws, 21, sec. 81.
 power of, to make laws, 23, sec. 5.
 right of petition, instruction and remonstrance to, 21, sec. 32.
 to keep open galleries, 24, sec. 8.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Legislature, no member of, to take fees or act as counsel, 24, sec. 7.
 members of, privileged from arrest, 35, sec. 21.
 may be adjourned by governor, when, 30, sec. 43; 32, sec. 50.
 shall be dissolved by governor, when, 30, sec. 43.
 place of session may be changed, when, 30, sec. 43.
 may be convened by governor, when, 32, sec. 52.
 powers in relation to impeachments, 25, sec. 17; 34, sec. 83.
 to fill vacancies in senate, 28, sec. 34.
 in council, 34, sec. 62.
 to choose commissary general, secretary and treasurer, 35, sec. 67.
 may divide State into councillor districts, 35, sec. 65.
 counties for registration of deeds, 36, sec. 72.
 bills and resolves passed by, to be approved by governor, 31, sec. 44, 45.
 veto of, and proceedings thereon, 31, sec. 44, 45.
Liberty, the natural right of man, 17, sec. 2.
 of the press essential to freedom, 21, sec. 21.
 of speech essential to freedom, 21, sec. 30.
 of conscience, 17, sec. 4; 19, sec. 13.
 standing armies dangerous to, 21, sec. 25.
Literature ought to be cherished and encouraged, 37, sec. 83.
Magazines, public reports in relation to, 33, sec. 57.
Meetings for annual election of governor, &c., when to be holden, 28, sec. 32.
 moderator of, duties, 28, sec. 32.
 proceedings in, how conducted, 28, sec. 32.
 of general court, when holden, 22, sec. 3.
 for choice of senators, when, 27, sec. 27.
Military, subordinate to civil power, 21, sec. 26.
Militia well regulated, a sure defence, 21, sec. 24.
 subject to martial law, when, 22, sec. 34.
 officers of, how appointed, 31, sec. 46, 48; 33, sec. 54.
 oath of, form, 38, sec. 84.
 removed, 33, sec. 53.
 commissioned by governor, when, 31, sec. 47.
 governor, commander-in-chief of, 32, sec. 51.
 how divided into brigades, 33, sec. 55.
Moderator of meetings for choice of governor, &c., duties of, 28, sec. 32.
Money, how issued out of the treasury, 38, sec. 56.
 computation of, 40, sec. 97.
Money-bills, where to originate, 26, sec. 18.
Morality and piety, greatest security to government, 18, sec. 6.
 ought to be encouraged, 37, sec. 83.
Non-resistance, doctrine of, slavish and destructive of good order, 19, sec. 10.
Oaths of office, form of, 38, sec. 84.
 of allegiance, form of, 38, sec. 84.
Oaths of allegiance, to be filed, where, 33, sec. 84.
 of governor, senators and representatives, how taken, 38, sec. 85.
 includes affirmation, 33, sec. 84.
Offences, penalties for, ought to be proportioned to the nature of the crime, 20, sec. 18.
 punishment of, designed to reform, 20, sec. 18.
 to be plainly described in indictment, &c., 19, sec. 15.
Officers, moral qualifications of, 22, sec. 33.
 civil qualifications of, 27, sec. 30, 31; 30, sec. 42.
Judicial, tenure of office of, 36, sec. 73.
 appointment of, 31, sec. 46; 33, sec. 54.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Officers, military, general and field, how appointed, 31, sec. 46.
captains and subalterns, how appointed, 31, sec. 46.
 how commissioned, 31, sec. 46; 33, sec. 36.
 how removed, 33, sec. 53.
 certain, to report to governor and what, 33, sec. 57.
 what excluded from other offices, 40, sec. 36.
Offices, not to be hereditary, 18, sec. 9.
 term of, to be expressed in commission, 36, sec. 73.
 what two not to be held by the same person, 39, sec. 94.
 what disqualifies from holding, 40, sec. 96; 30, sec. 39.
Pardons, what may be granted and how, 33, sec. 52.
Penalties to be proportioned to offence, 20, sec. 18.
Pensions, how granted, 22, sec. 36.
 from other governments not to be received by whom, 39, sec. 38.
People are free, independent and sovereign, 18, sec. 7.
 all power derived from, 18, sec. 8; 19, sec. 10.
 not compelled to bear arms against their conscience, 19, sec. 13.
 not to be taxed without their consent, 21, sec. 28.
 secured in person and property, 20, sec. 19.
 may assemble and petition legislature, 21, sec. 32.
Power, all derived from the people, 18, sec. 8.
President of the senate, powers of, when office of governor vacant, 32, sec. 49.
 when acting as governor, not to hold his office in senate, 32, sec. 49.
Press, liberty of, essential to freedom, 21, sec. 22.
Privilege from arrest, 26, sec. 21.
Probate judges, jurisdiction of, 37, sec. 80.
 of, not to be sheriff or register of deeds, 38, sec. 94.
 registers, how appointed, 31, sec. 46.
 not to act as attorney, 37, sec. 81.
Proclamation of amendments, 42.
Property, protection of, 17, sec. 2; 19, sec. 12, 15.
 not to be taken for public use, when, 19, sec. 12.
 qualifications of officers. See *Amendments*.
 public reports in relation to, 33, sec. 57.
Protest to be entered on journal, 34, sec. 64; 26, sec. 24.
Public magazines and stores, account of, 33, sec. 57.
Punishment proportioned to offence, 20, sec. 18.
 design of, to reform, 20, sec. 18.
 not to be cruel or unusual, 22, sec. 38.
Records of house of representatives, 26, sec. 24.
 of meetings for elections, 23, sec. 32.
 of votes, 23, sec. 32.
 of governor and council, 34, sec. 64.
 state, where kept, 35, sec. 68.
Register of deeds, how chosen, 35, sec. 71.
 how chosen when county divided, 36, sec. 72.
 not to be judge of probate or sheriff, 39, sec. 94.
Register of probate, how appointed, 31, sec. 46.
 not to act as counsel, 37, sec. 81.
Registration, counties may be divided for, 36, sec. 72.
Religion to be encouraged by legislature, 18, sec. 6.
 institutions of, to be supported by free donations, 18, sec. 6.
 entitled to equal protection, 18, sec. 6.
Religious test of representatives, 25, sec. 14.
sensors, 27, sec. 29.
 governor, 30, sec. 42.
 worship not to be disturbed, 17, sec. 5.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Removal by address of military officers, 33, sec. 53.
 judicial officers, 36, sec. 73.
Representatives in general court, how chosen, 24, sec. 9.
 apportionment of, 24, sec. 9.
 in classed towns, 25, sec. 10.
 in towns of less than 150 ratable polls, 25, sec. 11.
 to be chosen annually, 25, sec. 12.
 qualification of voters for, 25, sec. 13.
 qualification of, 25, sec. 14.
 how compensated, 25, sec. 15.
 to choose speaker and make rules, 26, sec. 22.
 vacancies in, how filled, 25, sec. 16.
 impeachment of, how tried, 25, sec. 17.
 oath of, how taken, 33, sec. 84.
 what officers shall not be, 40, sec. 95, 96.
 exempt from arrest, 26, sec. 21.
Retrospective laws forbidden, 21, sec. 23.
Revision of the constitution, how provided for, 40, sec. 98, 99.
Rights to enjoy liberty and property, 17, sec. 2; 19, sec. 12.
 of property to be surrendered for good of society, 17, sec. 3; 19, sec. 12.
 of conscience, 17, sec. 4.
 to worship, 17, sec. 5.
 of trial by jury, 20, sec. 20.
 of petition, 21, sec. 32.
Salaries of judges ought to be honorable, 22, sec. 35; 34, sec. 53.
 and permanent, 34, sec. 53.
Schools ought to be cherished and encouraged, 37, sec. 83.
Search warrant to be supported by oath, 20, sec. 19.
 specific as to persons and objects, 20, sec. 19.
Secretary of the state, how chosen, 35, sec. 67.
 duty of, to keep records, 35, sec. 68.
 shall give bonds, 35, sec. 70.
 shall have a deputy, 35, sec. 69.
 deputy, duties of, 35, sec. 69.
Selectmen to attend meetings for election, 23, sec. 32.
Senate to be first branch of legislature, 27, sec. 23.
 adjournment of, 29, sec. 36.
 on trial of impeachment, 29, sec. 36.
 quorum of, 29, sec. 37.
 rules of, how made, 29, sec. 37.
 officers of, how chosen, 29, sec. 38.
 to try all impeachments, 29, sec. 38.
 may punish contempts, 26, sec. 23.
 president of, when to exercise the powers of governor, 32, sec. 49.
 to be final judges of their own elections, 29, sec. 35.
Senators, number and tenure of office, 27, sec. 25.
 how elected, 27, sec. 27, 28.
 qualifications and test of, 27, sec. 29.
 oath of, how taken, 33, sec. 85.
 districts for choice of, 27, sec. 26.
 on what basis, 27, sec. 26.
 meetings for choice of, how warned, 23, sec. 32.
 how conducted, 23, sec. 32.
 election of, how determined, 23, sec. 33.
 vacancies in, how filled, 23, sec. 34.
Sheriffs, how appointed, 31, sec. 46.
 tenure of office, 37, sec. 73.
 to forward certificate of elections, 23, sec. 32.
 not to be judge of probate or register of deeds, 39, sec. 94.
Society, what rights to be surrendered for, 17, sec. 8.
Soldiers, how quartered, 21, sec. 27.
Solicitors, how appointed, 31, sec. 46.
Speaker of house of representatives, how chosen, 26, sec. 22.

CONSTITUTION OF NEW HAMPSHIRE.

(Continued.)

Speech, freedom of, 21, sec. 30.
Standing armies, dangerous, 21, sec. 25.
Statutes, enacting style of, 39, sec. 92.
Taxes, not to be levied without consent of the people, 21, sec. 28.
 to be equal, 24, sec. 6.
Taxation, to be the basis of senatorial districts, 27, sec. 26.
Tenure of office, 36, sec. 73, 75.
 to be expressed in commission, 36, sec. 73.
Test religious of representatives in general court, 25, sec. 14.
 senators, 27, sec. 29.
 governor, 30, sec. 42.
Towns, representation of, in legislature, equal, 24, sec. 9.
 representatives of, how and when chosen, 24, sec. 9; 25, sec. 12.
 classified towns, how chosen, 25, sec. 10.
 in such as have less than 150 polls, 25, sec. 11.
 qualification of, 25, sec. 14.
Town clerk to keep records of meetings, 23, sec. 32.
 to record and return certificate of votes, 23, sec. 32.
Town records, how kept, 23, sec. 32.
Town officers, duties in conducting elections, 23, sec. 32.
Town meetings, how holden and conducted, 23, sec. 32.
Treasurer of the state, how chosen, 35, sec. 67.
 when to pay money from the treasury, 33, sec. 56.
 counties, how chosen, 35, sec. 71.
Treasury, state, warrants on, to be drawn by the governor, 33, sec. 56.
 money not to issue from, except on warrant or for redemption of bills of credit, 33, sec. 56.
Trials of criminals, where to be held, 20, sec. 17.
 to be by jury, 19, sec. 15.
 cases arising on high seas, 20, sec. 20.
 to be had speedily and without delay, 19, sec. 14.
Unalienable rights, what are, 17, sec. 4, 5.
Unincorporated places, rights of, 27, sec. 31; 25, sec. 10, 11.
Unreasonable search and seizure not warranted by law, 20, sec. 19.
Vacancies in senate, how filled, 23, sec. 34.
 in council, how filled, 34, sec. 62.
 in office of governor, how filled, 32, sec. 49.
 order of filling by legislature, 23, sec. 34.
 meetings to fill, may be adjourned, 35, sec. 66.
Valuation for taxation to be equal, 24, sec. 6.
 how often to be revised, 24, sec. 6.
Veto power, how to be exercised by governor, 31, sec. 44, 45.
 laws how enacted, notwithstanding, 31, sec. 44, 45.
Voters, qualification of, to elect senators, 27, sec. 27, 30, 31.
 representatives, 25, sec. 13.
 governor, 30, sec. 42.
 rights of, in unincorporated places, 27, sec. 31.
 sense of, to be taken on revision of constitution, 40, sec. 39, 100.
Votes, how certified and returned, 23, sec. 32; 30, sec. 42; 34, sec. 60.
Warrants on state treasury, how drawn, 33, sec. 56.
 for search and seizure, requisites of, 20, sec. 19.
Worship, right of, without molestation, 17, sec. 5; 18, sec. 6.
Writs, requisites of, seal, attestation and signature of clerk, 33, sec. 37.
Yeas and nays of both houses of legislature to be recorded, 26, sec. 24.

CONSTRUCTION OF STATUTES, 44, chap. 1. rules, when applied, 46, sec. 30.
CONTAGIOUS DISEASES, penalty for landing persons infected with, 278, sec. 11.
 See *Health officers, Quarantine*.
CONTRACTS, when to be in writing, 459, sec. 8, 10.
CONTRIBUTION by inhabitants of towns for taxes collected by extent, 133, sec. 13.
 by stockholders in banks for corporation debts, 331, sec. 60; 314, sec. 6.
 in other corporations for debts paid by co-stockholders, 314, sec. 6.
CONVENTION, county, how constituted and duties of, 34, sec. 2.
CONVEYANCE of estates in fee tail by deed, effect of, 237, sec. 1.
 or devise to two or more, how construed, 237, sec. 2.
 to, or by a lien, effect of, 238, sec. 4.
 of greater estate than grantor possesses, effect of, 238, sec. 6.
 how made, 238, sec. 1.
 corporations authorized to make, by agent, 238, sec. 2.
 deed of, requisites, 238, sec. 3.
 to be recorded, 238, sec. 4.
 or lease, when valid, 238, sec. 4.
 may be recorded in another county, 239, sec. 5.
 not acknowledged, how long valid, 239, sec. 7.
 how proved if grantor insane, dead or absent, 239, sec. 8.
 if witnesses insane, dead or absent, 239, sec. 9.
 if grantor refuses to acknowledge, 239, sec. 10.
 holder of, if refusing to record, proceedings, 239, sec. 11.
 to be by instruments in writing, 239, sec. 12, 13.
 may be by deed duly executed and recorded, without other act or ceremony, 238, sec. 1.
 in writing not to be defeated by an agreement unless part thereof, 239, sec. 2.
 by and to wife, how made if husband under guardianship, 331, sec. 9.
 wife may join with husband in, 331, sec. 10.
 may join release of dower though not of age, 331, sec. 10.
 may be made to married woman for her separate use, 332, sec. 13.
 not to be made by husband to wife, 332, sec. 16.
 of property to trustee by married woman, 333, sec. 18.
 of homestead, how executed, 474, sec. 1.
CONVICTS, aiding escape of, punishment, 557, sec. 12, 13.
 conveying tools to, for aiding escape, punishment, 558, sec. 10.
 permitting escape by officer, how punished, 557, sec. 14.
 insane, to be removed to asylum, 53, sec. 19, 20.
 to suffer solitary imprisonment, how, 574, sec. 11.
 to be branded on second conviction, 575, sec. 16.
 liable for costs of prosecution, 575, sec. 18.
CONVICTION of crime and punishment, cause of divorce, 577, sec. 8.
COOKING STOVES exempt from attachment, 469, sec. 2.
COPARTNERS, chancery powers of S. C. J. in adjusting affairs of, 434, sec. 9.
 actions between, regulated, 469, sec. 5, 7.
COPIES of record agreed upon by parties to be effectual as if certified, 441, sec. 7.
 filed in appealed cases, who to produce, 442, sec. 8.
 to be furnished by clerks of corporations when required, 313, sec. 26.
 of courts when required, 441, sec. 5.

CORD WOOD, measures of, when chosen, 106, sec. 7; 247, sec. 6.
 how measured, 247, sec. 5.
 measurers of, 247, sec. 6.
 their fees, 247, sec. 6.
 penalty for neglect of duty, 247, sec. 7.

CORONERS to give bonds to county, 457, sec. 1,
 actions upon bonds of, 457, sec. 2.
 for misconduct or default to be case, 460,
 sec. 13.
 powers and duties of, 457, sec. 3.
 when offender not in county, 571, sec. 14.
 fees of, for service of process, 591, sec. 19.
 taking inquest, 592, sec. 22.
 proclamation to be made by, to call wit-
 nesses, 570, sec. 9.

CORONER'S INQUEST, when to be holden,
 569, sec. 1.
 form of, 571, sec. 13.
 expenses of, how paid, 571, sec. 15.
 body of stranger after inquest to be buried,
 571, sec. 15.
 expenses of burial, how paid, 571, sec. 15.

CORONER'S JURY, how summoned, 569, sec.
 2, 5.
 not attending when summoned, penalty, 569,
 sec. 4.
 to be sworn, 569, sec. 6.
 to be charged by coroner, 570, sec. 8.
 to render verdict, when, 570, sec. 12.
 summons, form of, 569, sec. 2.
 service of, 569, sec. 2.
 witnesses before, to be summoned and sworn,
 570, sec. 7, 10.
 testimony of, to be drawn up and signed,
 570, sec. 11.
 to recognize or committed, when, 570, sec.
 11.

CORPORATIONS, general provisions concern-
 ing, 810, chap. 147.

Actions against stockholders, 813, sec. 8.
 when and how commenced, 813, sec. 4.
 not to abate for non-joinder of stockhold-
 ers, 813, sec. 8.
 for contribution against co-stockholders,
 814, sec. 6.

Alteration, amendment and repeal of charters
 reserved, 819, sec. 36.

Annual meetings, time of holding, may be
 changed, 819, sec. 33.
 if lost, justice of peace may call, 813, sec. 31.
 warrant to be issued and notice given, 819,
 sec. 32.

Acts of, null and void unless grantees organize
 in three years, 819, sec. 35.

Agents of, how empowered to convey real estate,
 288, sec. 2.

Books of records open to inspection of stockhold-
 ers, 813, sec. 25.

By-laws relating to proxy voting, 816, sec. 17.

Clerk, duty to furnish copy of records when
 required, 813, sec. 26.
 fees for copies, 813, sec. 27.
 penalty for refusing to furnish copies, 813,
 sec. 29.
 to deliver to town clerks lists of stock-
 holders, 815, sec. 8.
 penalty for not returning list, 815, sec. 11.
 to be inhabitant of the State, 813, sec. 23.

Charters expiring, three years allowed to close
 business, 819, sec. 34.
 amendment, alteration and repeal of, 819,
 sec. 36.

Conveyance of real estate by agent appointed,
 288, sec. 2.

Debts of, stockholders liable for, individually,
 811, sec. 1.
 must be first demanded of corporation,
 813, sec. 4.
 evidences of, may be examined by stock-
 holders, 813, sec. 25.
 due by corporation to be reported to gov-
 ernor, 813, sec. 3.
 not to exceed one half amount of stock
 and assets, 812, sec. 1, 6.

CORPORATIONS. (Continued.)

Debts of, executors, administrators and guar-
 dians; not liable, 813, sec. 2.
 persons holding stock in trust or as collat-
 eral security not liable, 813, sec. 2.

Directors, number of, in railroad and banking
 corporations, 813, sec. 24.
 liable for the payment of all debts of the
 corporation if they declare dividend
 when insolvent, 812, sec. 4.
 liable if they make false returns, 813, sec. 7.
 duty to call meetings of stockholders to
 provide for debts, 813, sec. 4.
 penalty for not calling such meetings, 813,
 sec. 4.

Franchise of, how attached, 471, sec. 15.

Meetings shall be called to provide for debts,
 813, sec. 4.
 annual or special, may be called by a jus-
 tice of peace, 813, sec. 31.
 may be changed, 819, sec. 33.

Officers, clerk and cashier to be inhabitants of
 the State, 813, sec. 23.
 to be sworn, 813, sec. 23.
 penalty for fraudulently violating provi-
 sions, 813, sec. 30.
 to furnish assessors with invoice of taxa-
 ble property, 118, sec. 7, 9.
 to furnish sheriffs with number of shares
 any debtor may have, 500, sec. 20.

Fraudulent, regulations, 813, sec. 14, 15, 16.
 by-laws may be made respecting, 816, sec.
 17.
 penalty for violating laws upon proxy
 voting, 817, sec. 18.

Process and modes of proceedings against stock-
 holders and officers, 813, sec. 3, 4, 5, 6.

Records open to inspection, 813, sec. 25.
 clerk to furnish copies of, 813, sec. 26.
 list of stockholders to be recorded in town
 clerk's office, 815, sec. 9.

Service of writs against, how made, 468, sec. 1;
 467, sec. 11.

Shares not to be sold by corporation for less
 than par value, except for payment of
 assessments, 817, sec. 20.
 may be sold by stockholders for less, 817,
 sec. 21.
 any number may be inserted in one certi-
 ficate, 817, sec. 22.
 appraisal of, for taxation, 120, sec. 1.
 how attached, 470, sec. 13.

Stockholders personally liable for debts, in what
 cases, 811, sec. 1.
 1st, until the capital stock is all paid in;
 2d, if the stock is reduced and refunded;
 3d, if corporation neglects to report to
 governor;
 4th, if dividend is paid when corpora-
 tion is insolvent;
 5th, if loans are made;
 6th, if the debts exceed one half the
 stock and assets;
 7th, officers who make false certificates,
 &c.

process and modes of proceedings against,
 813, sec. 3, 4, 5, 6.
 to have contribution when having paid
 debts, 814, sec. 6.
 list of, to be given to town clerk, 815, sec. 8.
 penalty for not returning list, 815, sec. 11.
 to be recorded by town clerk, 815, sec. 9.
 exonerated by notifying town clerk of
 transfer, 815, sec. 9.
 record of list of, *prima facie* evidence of
 liability, 815, sec. 10.
 wilful neglect, penalty, 816, sec. 12.
 of bridge corporations, list of, where re-
 corded, 816, sec. 13.
 administrators, executors and guardians
 not liable, 813, sec. 2.
 holding stock as collateral security not lia-
 ble, 813, sec. 2.

Taxes, property of, liable to taxation, 118, sec.
 3.

CORPORATIONS. (*Continued.*)

- Taxes*, where to be assessed, 116, sec. 5.
- lien on property for, 118, sec. 18.
- neglecting to pay to be doomed, 119, sec. 8.
- officers to give in invoice, 119, sec. 7, 9.
- collection of, and notice. See *Taxes*.
- Treasurer* to furnish officer having execution against stockholder with certificate of number of shares, 500, sec. 20.
- Trustee*, process against, 530, sec. 23.
- Voting*, stockholders who have pledged stock may vote on it, 317, sec. 19.
- executors, guardians and trustees may vote, 317, sec. 19.
- penalty for fraudulent representing stock, 317, sec. 19.
- on shares not allowed until all assessments are paid, 316, sec. 16.

CORRECTION. See *House of Correction*.**COSTS**, in superior court and C. C. Pleas, what allowed, 590, sec. 5.

- in justice court, what allowed, 590, sec. 6, 10.
- in locating school house, how paid, 173, sec. 4.
- endorser of writ liable for, 496, sec. 18.
- in civil actions, 492, chap. 204.
- to follow event of suit unless otherwise ordered, 492, sec. 1.
- none allowed in actions upon judgment, when, 492, sec. 2, 3.
- no more than damages, when, 492, sec. 4, 5.
- limited, when, 493, sec. 6.
- how allowed on petitions in superior court, 493, sec. 7.
- on nonsuit, 479, sec. 2.
- in case of set-off, 493, sec. 11.
- for not entering action, 479, sec. 1.
- before auditors, 490, sec. 8.
- in action of review, 493, sec. 4; 494, sec. 10, 11, 12.
- on petition of poor debtors, 509, sec. 13; 510, sec. 14.
- on suits against bail, 511, sec. 7.
- on partition of lands, 524, sec. 15.
- in cases of reference, 537, sec. 15.
- in criminal cases, 540, sec. 14; 575, sec. 18.
- how paid, 566, sec. 21.
- on forfeiture of property, 541, sec. 8.
- of coroners' inquest, 571, sec. 15.
- in laying out highways, how paid, 143, sec. 9, 10.
- on indictment of highways, 144, sec. 3, 4.
- on appeal for increase of damages, 140, sec. 8.
- collector of taxes indemnified for, how, 133, sec. 16.

COTENANTS, actions between, regulated, 459, sec. 5, 7.**COUNCILLORS**, districts for election of, 76, chap. 18.

- meetings for election of, when holden, 90, sec. 1.
- copy of record of votes to be returned to secretary of state, 90, sec. 2.
- compensation for services of, 587, sec. 18, 22.

COUNTERFEITING bank bills, making and altering, 553, sec. 4.

- passing or having in possession with intent to pass, 554, sec. 5.
- making tools for or having in possession, 554, sec. 6.

COUNTERFEITING coin, making, 554, sec. 8.

- passing or having in possession with intent to pass, 554, sec. 9.
- evidence on trial, what is competent to prove existence of bank, 554, sec. 7.

COUNTIES, division of State into, 73, chap. 17.

- boundaries of Rockingham, 73, sec. 2.
- Stratford, 74, sec. 8.
- Hillsborough, 74, sec. 4.
- Cheshire, 74, sec. 5.
- Sullivan, 74, sec. 6.
- Grafton, 74, sec. 7.
- Merrimack, 75, sec. 8.
- Belknap, 75, sec. 9.
- Carroll, 75, sec. 10.

COUNTIES. (*Continued.*)

- boundaries of Coos, 75, sec. 11.
- Grafton, judicial districts of, 75, sec. 12; 76, sec. 14.

- COUNTIES** are made corporations, 79, sec. 1.
- property of, how controlled, 79, sec. 2.
- suits by or against, where brought, 79, sec. 3.
- executions against, how levied and collected, 79, sec. 4.
- expenses of court, laying out highways, &c., how paid, 82, sec. 5.
- service of writ against, how made, 463, sec. 12.

COUNTY CONVENTIONS, how holden, and duties of, 84, sec. 2.**COUNTY OFFICERS**, election of, 80, sec. 1.

- qualification of, 80, sec. 2.
- oath of, 81, sec. 9.
- removal of, 81, sec. 10.
- vacancy, how filled, 81, sec. 11.
- votes for, how returned, 80, sec. 3, 4.
- election of, how determined, 80, sec. 5, 6.
- penalty for neglect to return votes for, 80, sec. 7.
- limitation of penalty, 81, sec. 8.

COUNTY REVENUE, wants of, how determined, 84, sec. 1.

- tax for, how raised, 84, sec. 2.
- tax, collection of, 84, sec. 2.

COUNTY TAX, grant and collection of, 83, chap. 24.**COUNTY TREASURER.** See *Treasurer, county*.

- COURTS, how constituted, 431, chap. 181.
- proceedings in, 479, chap. 196.

Abatement of actions, not for formal error, 490, sec. 10.

- nor for misjoinder or nonjoinder of parties, 481, sec. 18.
- nor by death of party in actions of tort, 481, sec. 14.
- nor by death of one of joint parties, 481, sec. 15.
- nor by marriage of female plaintiff, 481, sec. 17.
- nor by person interested in estate who serves as administrator before appointment, 410, sec. 10.

Adjournment of superior court, 439, sec. 1.

- by any member of, 439, sec. 2.
- by sheriff if no justice of, present, 439, sec. 3.

Amendment of errors of form, 480, sec. 10.

- of substance, 481, sec. 11.
- by striking out defendant erroneously joined, 481, sec. 13.

Business of superior court, for all counties, done in Concord, 435, sec. 16.

- transferred to new term when changed, 439, sec. 4.

Capital cases, how tried, 438, sec. 3.**Confession** of damages, 482, sec. 2.**Continuance** when defendant not inhabitant of State, 480, sec. 5.

- before justice, 480, sec. 7.
- when set-off filed, 483, sec. 10.

Clerks, duties, &c. See *Clerks of courts*.**Costs** on complaint for not entering action, 479, sec. 1.

- in case of set-off, 493, sec. 11.
- before auditors, 490, sec. 8.
- in actions of review, 493, sec. 4; 494, sec. 10, 11, 12.

Endorser of writ liable for, 496, sec. 18.

- limited, when, 493, sec. 6.

Damages on default, 479, sec. 8.

- in actions of review, 494, sec. 11.
- of debt on bonds, 491, sec. 8.
- on mortgages, 492, sec. 11.

Default, when to be entered, 479, sec. 3.

- when may be taken off, 480, sec. 4.
- judgment on, 479, sec. 3.

Deposition to be used in. See *Depositions*.**Evidence**, subpoenas to witnesses, how issued, 484, sec. 2.

- by whom may be issued, 485, sec. 3, 4, 5.

COURTS. (Continued.)

Evidence, depositions to be used as evidence, how taken, 488, sec. 18 to 23.

Judgment on nonsuit, 479, sec. 2.

on default, 479, sec. 8.

in cases of set-off, 483, sec. 11.

See *Judgments*.

New trial. See *Review*.

Nonsuit, judgment and costs on, 479, sec. 2.

Notice when defendant out of the State, 480, sec. 5.

special, how given, 480, sec. 6.

by justice, how given, 480, sec. 7.

of set-off, 483, sec. 9.

on petition and complaints in court, 482, sec. 20.

Pleadings, special, not necessary except plea of title to land before justice, 482, sec. 3.

in case of set-off, 483, sec. 9.

by brief statement, 482, sec. 3.

replications by plaintiff, 483, sec. 4.

issue, when maintained, 483, sec. 5.

Records of, where to be kept, 441, sec. 5, 6.

copies of, may be used by agreement of parties, 441, sec. 7.

Set-off regulated, 483, sec. 9, 12.

Tender to plaintiff's attorney, when bar to action, 482, sec. 1.

Terms of, when expedient, may be changed to another town, 440, sec. 5.

when changed, all business transferred to new term, 439, sec. 4.

justices to take cognizance of, 483, sec. 4.

Vacations, petitions may be filed in, 482, sec. 21.

order of notice may be issued in, 482, sec. 21.

Views by jury, when may be ordered, 484, sec. 1.

COURT OF COMMON PLEAS, constitution of, 483, sec. 2.

Adjournment of, when and how, 489, sec. 1.

by any member of court, 489, sec. 2.

by sheriff if no justice present, 489, sec. 3.

Clerks. See *Clerks of courts*.

Commissioners of reference may be appointed in civil cases, 487, sec. 29.

cases submitted to, when, 487, sec. 29.

statement of case to be filed in court, 487, sec. 30.

may be amended at any time, 487, sec. 30.

questions of fact to be reported to court, 487, sec. 31.

evidence to be reported if requested by either party, 487, sec. 31.

parties may be examined as witnesses in chief, 487, sec. 32.

judgment on report of, unless either party elect trial by jury, 488, sec. 33.

verdict to be special, 488, sec. 35.

judgment on report or verdict to be conclusive, 488, sec. 36.

may proceed ex parte, when, 488, sec. 37.

Exceptions, when and how taken, 487, sec. 26.

to be transferred to superior court, 487, sec. 26.

Jurisdiction in civil cases, 486, sec. 21.

in criminal cases, 486, sec. 22.

in cases of appeal, 486, sec. 23.

to try all issues of fact, 486, sec. 24.

in petitions for highways, 486, sec. 28.

in capital cases, 486, sec. 8.

in appeals from justices of the peace, 486, sec. 23.

to discharge insane offenders from confinement, 578, sec. 26.

to remit fines in vacation, 579, sec. 12.

over county affairs:

of county property, 79, sec. 2.

to provide houses of correction, 268, sec. 1.

to remove county officers, 81, sec. 10.

to abate taxes, 128, sec. 2.

to approve county treasurer's bond, 81, sec. 1.

COURT OF COMMON PLEAS. (Continued.)

Jurisdiction over county affairs:

to authorize county treasurer to borrow money, 84, sec. 6.

to settle damages of buildings demolished at fire, 255, sec. 17.

in cases for violation of license law, 270, sec. 9; 283, sec. 6.

police laws, 264, sec. 21.

to license hawkers and peddlers, 282, sec. 8.

pest houses, 276, sec. 4.

as to sufficiency of sheriffs' bond, 458, sec. 8.

Justices, circuit, number of, and how appointed, 482, sec. 1.

when disqualified to sit in trial of cause, 487, sec. 23.

salaries of, 585, sec. 7.

county, number of, how appointed, 488, sec. 2.

salaries of, 585, sec. 8.

when shall preside, 483, sec. 3.

quorum of, what constitutes, 483, sec. 3.

Rules of, how made, 486, sec. 12.

Terms, when and where holden, 489, sec. 38.

change of, courts to take cognizance of all proceedings, 483, sec. 4.

COURT SUPERIOR, constitution of, 482, sec. 1.

Adjournment of, when and how, 489, sec. 1.

by any member of court, 489, sec. 2.

by sheriff, if no justice present, 489, sec. 3.

Business for all counties to be done in Concord, 485, sec. 16.

times for doing of each county to be fixed and notice given, 486, sec. 17.

Briefs, copies of, to be furnished to justices, 486, sec. 17.

Chancery, powers of, 484, sec. 9.

in case of charitable uses, 484, sec. 9.

trust, fraud, accident or mistake, 484, sec. 9.

respecting mortgages and assignment of dower, 484, sec. 9.

discovery of secreted property by debtor, 484, sec. 9; 486, sec. 19.

to prevent transfer of property held in trust, 486, sec. 19, 20.

accounts of copartners and cotenants, 484, sec. 9.

injunctions to prevent injustice, 484, sec. 10.

Clerks of. See *Clerks of courts*.

to attend terms of, in Concord, 485, sec. 15.

fees of, for attending terms in Concord, 485, sec. 16.

to certify issues of fact to C. C. Pleas, 484, sec. 11; 487, sec. 27.

Decisions of, to be certified to C. C. Pleas, 487, sec. 27.

Equity powers. See *Chancery*. *Court superior*.

Injunctions against suspended banks, 284, sec. 21.

railroads, 349, sec. 43.

in general to prevent injustice, 484, sec. 10.

to restrain creditors from collecting debts of suspended banks, 286, sec. 31.

to restrain husband from controlling wife and children during pendency of libel for divorce, 378, sec. 10.

to restrain alien father from removing minor children from the State, 381, sec. 8.

Issues of fact to be sent to C. C. Pleas, 484, sec. 11.

Jurisdiction of, in general, 484, sec. 5.

in case of divorce and alimony, 484, sec. 8; 873, sec. 6.

appeals from probate court, 484, sec. 8; 429, chap. 180.

to appoint trustees to hold separate property of wife, 383, sec. 18.

to control minor children of aliens, 381, sec. 8.

of writs of error, certiorari, mandamus, quo warranto and habeas corpus, 484, sec. 6.

petitions for new trial, review, partition,

COURT SUPERIOR. (Continued.)

- forfeitures and foreclosures of mortgages*, 424, sec. 8.
- Jurisdiction* of questions transferred from C. C. Pleas, 424, sec. 8.
- over inferior courts, 424, sec. 7.
- to order special judgments, 426, sec. 18.
- to order discovery of property concealed by debtor, 426, sec. 19.
- to make rules and order for superior and C. C. Pleas, 426, sec. 12.
- Justices*, number of, and how to be determined, 422, sec. 1.
- salaries of, 526, sec. 6.
- quorum of, 422, sec. 1.
- one to be, when all others disqualified, 426, sec. 13.
- are judges of C. C. Pleas, 422, sec. 2.
- chief justice is chief justice of C. C. Pleas, 422, sec. 2.
- how many to be present in capital trials, 422, sec. 3.
- to assess railroad tax, 112, sec. 4.
- Reports* of decisions to be prepared by, 451, sec. 4.
- compensation for, 451, sec. 5.
- Rules* of, to be made by justices of, 426, sec. 12.
- Terms* to be held in Concord, when, 426, sec. 14.

COURTS OF PROBATE. adjournment of, by

- judge, 394, sec. 16.
- register, 396, sec. 11.
- Administration*, grant of, by, 398, sec. 7.
- Appeal* from, when and how made, 430, sec. 2.
- bonds to be furnished in case of, by appellant, 430, sec. 3.
- notice of, to be given, how, 430, sec. 4, 8.
- costs in, when and how taxed, 430, sec. 5, 6, 10.
- if prevented by accident, remedy, 430, sec. 7, 9.
- issue in cases of, to be tried by jury, 430, sec. 11.
- if judge interested in, how tried, 398, sec. 11.
- Citations*, how issued and served, 398, chap. 164.
- Costs* in suits on bonds, 429, sec. 16; 428, sec. 4.
- Decrees* of, when to take effect, 430, sec. 12.
- Depositions* to be used in, may be taken, 394, sec. 17.
- Guardians* of minors and insane persons, court to appoint, 384, sec. 2; 386, sec. 10.
- spendthrifts, court to appoint, 386, sec. 12, 13.
- children of aliens, 381, sec. 8.
- Judges* of, construction of his title, 398, sec. 2.
- Jurisdiction* of, 398, sec. 3.
- if interested in case, how tried, 398, sec. 11.
- salary of, 526, sec. 12.
- Jurisdiction* to sell husband's property for support of wife, when, 390, sec. 2.
- over minors, spendthrifts and insane persons, 384, sec. 2; 386, sec. 10.
- over children of aliens, 381, sec. 8.
- to partition real estate when title not in dispute, 398, sec. 6.
- of probate of will, 402, sec. 6, 7.
- of trust estates, 426, sec. 5, 6; 427, sec. 10; 398, sec. 5.
- Notices*, in what cases necessary, 398, sec. 1.
- service of, when and how made, 398, sec. 3.
- party lives out of the State, 399, sec. 4.
- what newspapers may be published in, 399, sec. 6.
- Partition* of real estate, when title not in dispute, 398, sec. 6.
- Proceedings* in, shall be by petition, 398, sec. 1.
- in what county to be had, 398, sec. 8, 8.
- in case judge is interested in trial, 398, sec. 11.
- Records* of, where and how to be kept, 398, sec. 12; 396, sec. 6.
- fire proof buildings to be furnished for, 396, sec. 1.

COURT OF PROBATE. (Continued.)

- Register* of. See *Register of probate*.
- Superior* court to try appeals from, 430, sec. 7.
- may send issue of fact to jury, 430, sec. 11.
- Special*, how holden, 398, sec. 11; 394, sec. 14.
- Terms* of, when and where holden, 396, chap. 163.
- Wills*, probate of, and proceedings, 402, chap. 166.
- witnesses to, in common form, 408, sec. 6.
- Witnesses*, depositions of, how taken and used, 394, sec. 17.
- to wills essential to pass real estate, 400, sec. 6.
- to pass personal estate, 401, sec. 16.
- COURTS MARTIAL**, how constituted, ordered, and proceedings in, 217, chap. 99.
- COWS**, taxation of, 112, sec. 3.
- exempt from attachment, 469, sec. 2.
- CRIMES**, general provisions concerning, 522, chap. 226.
- Attempt* to commit, punishment, 522, sec. 2, 3.
- Abortion*, punishment for committing, 544, sec. 11.
- attempt to commit, 545, sec. 12.
- punishment when death ensues, 545, sec. 12.
- Accessories* to, how punished, 522, sec. 1.
- Forgery* and counterfeiting, 553, chap. 230.
- Offences* against the State, 542, chap. 226.
- life of person, 543, chap. 227.
- property, 547, chap. 229.
- public justice, 556, chap. 231.
- public peace, 558, chap. 233.
- chastity and morality, 559, chap. 232.
- public policy, 561, chap. 234.
- Procuring* commission of, 562, sec. 4.
- Receiving* stolen goods, 560, sec. 17.
- CRIMINAL PROCEEDINGS**, arraignment, prisoner standing mute on, proceedings, 573, sec. 5.
- Capital trial*, rights of prisoner to copy of indictment, 573, sec. 8.
- list of jury and witnesses to be furnished prisoner, 573, sec. 2.
- Challenge*, right of, regulated, 574, sec. 7, 8.
- peremptory, not allowed in behalf of State, 574, sec. 8.
- Costs*, judgment against convict for, when, 575, sec. 18.
- Counsel* to be assigned prisoner, when, 573, sec. 3.
- Indictment* when necessary, and where to be found, 572, sec. 1.
- where to be found, offence committed partly in two counties, 572, sec. 2.
- prisoner entitled to copy of, when, 573, sec. 8.
- on second or third conviction, 574, sec. 15.
- to allege intent to defraud, how, 576, sec. 21.
- not to be found against insane person, 575, sec. 24.
- Insane* offender acquitted, how disposed of, 575, 576, sec. 24, 29.
- how supported at asylum, 576, sec. 25, 30.
- may be discharged, how, 576, sec. 26, 31.
- may be transferred from jail to asylum, when, 576, sec. 31.
- may be committed to custody of friends, how, 576, sec. 27.
- may plead guilty by reason of insanity, 576, sec. 28.
- Jury*, list of, to be furnished prisoner, when, 573, sec. 3.
- may be challenged by prisoner, 574, sec. 7.
- not to be challenged by State, 574, sec. 8.
- Offender* standing mute, proceedings, 573, sec. 5.
- rights of, on capital trial, 573, sec. 3.
- not to be tried without indictment, when, 572, sec. 1.
- indicted for murder may plead guilty of minor offence, 573, sec. 6.
- proceedings in such case, 573, sec. 6.
- may challenge jurors, when, 574, sec. 7.

CRIMINAL PROCEEDINGS. (*Continued.*)

- Offender*, time of execution of, for capital offence, 574, sec. 8.
- Officer* to seize articles made or kept unlawfully, 576, sec. 22.
- willful neglect of, penalty, 575, sec. 23.
- Floodings* in capital cases to degrees of crime, 573, sec. 6.
- in cases of insanity, effect of, 576, sec. 23, 29.
- Prosecutor* entitled to compensation, when, 575, sec. 19.
- may be a witness, 575, sec. 20.
- Furnishment* of death, when and how inflicted, 574, sec. 9, 10.
- by solitary imprisonment, how inflicted, 574, sec. 11.
- upon conviction of common law, offence, 574, sec. 12.
- on second and third conviction, 574, 575, sec. 13, 14, 16.
- proceedings in such case, 574, sec. 15.
- by imprisonment for life, consequences of, 575, sec. 17.
- Trial* to be in county where offence is committed, 572, sec. 1.
- where offence committed partly in two counties, 572, sec. 2.
- proceedings in, when offender is insane, 576, sec. 23, 29, 30.
- Witnesses*, list of, to be furnished prisoner, when, 573, sec. 8.
- rebutting list of, need not be furnished, 573, sec. 4.
- not disqualified by interest, 575, sec. 20.
- CROPS** may be mortgaged before coming to maturity, 298, sec. 1.
- CRUELTY** a cause of divorce, 377, sec. 8.
- to animals, how punished, 560, sec. 12.
- CULLER OF STAVES.** See *Staves*.
- CURTSEY**, lands subject to, when, 422, sec. 1.
- DAMAGE FEASANT** by animals, 308, sec. 1.
- from insufficiency of fence, 301, sec. 12.
- See *Pounds*.
- DAMAGES** in suits for dower, 521, sec. 4.
- in laying out and altering highways, 136, sec. 9; 136, sec. 16.
- for defect in highways, 149, chap. 61.
- occasioned by altering streets, town liable, 136, sec. 18.
- how assessed, 137, sec. 19, 20.
- done by floating timber may be recovered, 306, sec. 5.
- to land owners by laying out railroads. See *Railroads*.
- DEAD BODIES**, disinterring without license, how punished, 560, sec. 10.
- inquest on. See *Coroner's inquest*.
- DEATH**, punishment of, 574, sec. 9, 10.
- DEATHS**, record of, to be kept, 234, sec. 2.
- DEBTORS.** See *Poor debtors*.
- assignment by, not valid unless distribution equal, 297, sec. 1.
- nor unless made under oath, 297, sec. 2.
- DEBTS**, mutual, may be set off in civil actions, 433, sec. 7.
- DECENCY**, offences against, how punished, 559, chap. 233.
- DECLARATIONS**, amendment of, allowed, when, 430, sec. 10.
- against stockholders in banks, 314, sec. 5.
- to be in English language, 462, sec. 1.
- DEEDS** of estates in fee tail, effect of, 237, sec. 1.
- real estate to two or more persons, how construed, 237, sec. 2.
- by or to alien, effect of, 238, sec. 4.
- of greater interest than grantor possesses, effect of, 238, sec. 6.
- of lands sufficient without other act or ceremony, 238, sec. 1.
- corporation may convey by, signed by agent, 238, sec. 2.
- to be signed, sealed, witnessed, acknowledged and recorded, 238, sec. 3.

DEEDS. (*Continued.*)

- unless attested, acknowledged and recorded, valid only against grantor, 239, sec. 4.
- may be recorded in another county, 238, sec. 5.
- copy of, from registry in another county, when valid, 239, sec. 5.
- power of attorney to convey by, how executed, 239, sec. 6.
- not acknowledged, valid sixty days after recording, 239, sec. 7.
- how proved if grantor insane, dead or absent, 239, sec. 8.
- if witness insane, dead or absent, 239, sec. 9.
- if grantor refuses to acknowledge, 239, sec. 10.
- if holder refuses to record proceedings, 239, sec. 11.
- not to be defeated by agreement unless, 239, sec. 12.
- of State lands, how executed and recorded, 54, sec. 8.
- of non-resident lands sold for taxes, 129, sec. 16, 17.
- terms of *grantor* and *grantee* defined, 45, sec. 14.
- DEFAULT**, when may be entered against defendant, 479, sec. 3; 490, sec. 7.
- on *scire facias* against administrator, 411, sec. 17.
- when may be taken off, 480, sec. 4.
- DEFINITIONS** of words in statutes, 44, chap. 1.
- DEMANDS**, mutual, between parties may be set off, 433, sec. 6, 7.
- DEPOSITIONS.** *Caption*, requisites of, 436, sec. 20, 21.
- form and direction of, 437, sec. 23.
- sealing of, 437, sec. 23.
- objections to, to be certified, 436, sec. 20.
- Civil causes*, when depositions may be taken in, 435, sec. 13.
- Commissioners* to take, if authorized, 436, sec. 14.
- Court of probate* may order taking of, when, 304, sec. 17.
- Deponents*, for giving in, how notified, 435, sec. 6.
- penalty for not obeying summons, 435, sec. 7.
- attendance, how compelled, 435, sec. 8.
- who are competent, 435, sec. 9, 10, 11.
- duty to sign and make oath of, 436, sec. 19.
- fees of, how to be paid, 435, sec. 6.
- Direction* of caption, 437, sec. 23.
- Fees* for taking, 538, sec. 1.
- of witnesses, when to be paid, 435, sec. 6.
- Forms* of taking, 436, sec. 18, 19, 20; 437, sec. 23.
- Justices*, who may take, 436, sec. 14.
- may summon witnesses to give in, 435, sec. 5.
- Notary public*, when may take and summon witnesses, 436, sec. 5; 436, sec. 14.
- Notice* of taking, what to be given and how served, 436, sec. 15.
- if adverse party lives out of the State, how given, 436, sec. 16.
- to attorney or agent, when may be issued, 436, sec. 16, 17.
- Oath*, form of, by witness, 436, sec. 19.
- of witness, how certified, 436, sec. 20.
- Objections* to caption to be certified by magistrate, 436, sec. 20.
- Perpetuum*, depositions in, 437, sec. 24 to 29.
- preliminary statement for, 437, sec. 25.
- in what cases may be taken, 436, sec. 1.
- notice of taking, how given, 437, sec. 26.
- copies of record of, may be used, 437, sec. 29.
- Penalty* for neglect to take, after notice, 436, sec. 22.
- Witnesses* for giving, how summoned, 435, sec. 5.
- penalty for neglect to attend, 435, sec. 7.
- may be compelled to attend by attachment, 435, sec. 8.
- qualification of, 435, sec. 9, 11, 12.

DEPOSITIONS. (Continued.)

- Witnesses*, interested, may give in deposition, 485, sec. 12.
deceased, deposition of, when may be used, 485, sec. 18.
Writing of, who shall not do, 486, sec. 18.
- DEPOSITIONS** in perpetuum, in what cases may be taken, 488, sec. 1.
preliminary statement of, to be made to commissioner, 488, sec. 2.
commissioners for taking, how appointed, 488, sec. 1.
to give notice of taking, 488, sec. 3.
to be written, signed and sworn to, 489, sec. 4.
records of, to be made, when and how, 489, sec. 5.
if lost, copies may be used, 489, sec. 6.
- DEPUTY SECRETARY**, duties of, in regard to non-resident taxes, 127, sec. 8, 4, 5.
- DEPUTY SHERIFF**. See *Sheriff*.
- DESCENT** of real estate regulated, 422, sec. 1.
personal property, 422, sec. 6.
the estate of deceased persons under age and unmarried, 422, sec. 2.
of the estate of bastards, 422, sec. 4.
mother of bastard, 422, sec. 5.
property to the State, when, 423, sec. 7, 8.
estate to posthumous children, 423, sec. 13.
alien may take real estate by, 288, sec. 4.
- DEVISE** to two or more, how construed, 287, sec. 2.
See *Wills*.
- DEVISEE**, heirs of, to take property bequeathed, 400, sec. 11.
if estate insufficient to be shared, 428, sec. 14.
partition of estate to, how made, 424, chap. 177.
- DICE**, playing at, for money, forbidden, 561, sec. 8.
- DISCLAIMER** of title in real actions, 481, sec. 12.
when plea filed, costs regulated, 481, sec. 18.
- DISCOUNT** of taxes, when paid within time prescribed by town, 126, sec. 17.
- DISCONTINUANCE** of highways. See *Highways*.
- DISORDERLY PERSONS**, how punished for offences, 268, sec. 2, 8.
offences in streets, 268, sec. 1.
- DISSEIZIN**, legacy not barred by, 400, sec. 8.
- DISTRESS** of property for payment of taxes, 124, sec. 4; 125, sec. 10.
warrants for railroads for payment of taxes, 114, sec. 7.
See *Pounds*.
- DISTRIBUTION** of estates among heirs, 422, chap. 178.
bonds to refund estate distributed, when to be given, 425, sec. 9.
of real estate among heirs, how made, 422, sec. 1.
when there is no issue or father, 422, sec. 2.
of deceased persons, unmarried and under age, 422, sec. 2.
of bastards, 422, sec. 4.
of mothers of bastards in equal degrees to children, 422, sec. 5.
of personal estate among heirs, how made, 422, sec. 6.
when no heirs, how, 423, sec. 7, 8.
advancements considered if made in writing, 423, sec. 9, 12.
to posthumous children, 423, sec. 13, 14.
records of, to be kept by register of probate, 423, sec. 15.
of reversion of dower, how made, 425, sec. 10.
of real estate set off to administrator, 407, sec. 13.
- DISTRICTS**, congressional, State divided into, 91, sec. 1.
how formed and limited, 91, sec. 2.
entitled to elect one member each, 91, sec. 1.
- DISTRICTS**, council, 76, chap. 13.
highway. See *Highways*.

DISTRICTS. (Continued.)

- judicial in Grafton county, 75, sec. 11.
school. See *Schools*.
senatorial, State divided into, 77, chap. 19.
- DIVORCE**, causes of, what are, 377, sec. 1.
when complete, 378, sec. 4.
must exist when petition filed, except in case of adultery, 378, sec. 5.
decrees of, may be pronounced where doubt exists whether marriage be void, 371, sec. 2.
not to affect legitimacy of children, 371, sec. 11.
or order may be revised by court, 371, sec. 16.
may include order in relation to support and custody of the children, 378, sec. 11.
may include order for alimony, 378, sec. 11.
libel for, where to be brought, 378, sec. 6.
notice of, to be given libelles, 378, sec. 6.
what to contain, and by whom signed, 378, sec. 7.
filed, wife and children, how protected, 378, sec. 10.
libelles insane, court to appoint guardian, 378, sec. 8.
court may order husband to disclose situation of property, 378, sec. 13.
alimony to be conveyed to trustees, 378, sec. 14.
security for alimony, 378, sec. 15.
upon hearing for, marriage how proved, 378, sec. 9.
- DOGS** without collars may be killed, 296, sec. 1.
by-laws respecting, may be made by town, 288, sec. 6.
owners of, liable for damage done by, 288, sec. 7.
- DOOMAGE** of persons refusing to give in list of property to be taxed, 119, sec. 5, 6.
of corporations refusing, 119, sec. 8.
- DOWER**, what estate subject to, 420, sec. 3, 4.
how estimated, 420, sec. 5.
assignment of, how made, 424, sec. 1.
special, when metes and bounds cannot conveniently be given, 420, sec. 6.
reversion of, how divided among heirs, 425, sec. 10.
widow holding, liable for waste committed, 420, sec. 7.
may waive provisions in will and take dower, 401, sec. 12.
action for, when may be brought, 521, sec. 1.
form of writ for, to be summons, 521, sec. 1.
service of, how made, 466, sec. 2.
made when defendant not an inhabitant of the State, 467, sec. 8.
demand of, first to be made, 521, sec. 2.
how set off by officer, 521, sec. 6.
form of judgment for, 521, sec. 5.
rights of widow therein, 521, sec. 7.
- DRAFTS**, grace on, when allowed, 460, sec. 11.
- DRUNKARDS**, habitual, punishment of, 268, sec. 2.
found drunk in street or public place, how punished, 268, sec. 11.
guardian may be appointed over, 265, sec. 13, 13.
- DWELLING HOUSE**, burning of, how punished, 547, sec. 1.
committing larceny in, by breaking and entering, punishment, 549, sec. 10.
- EDUCATION**, what branches of, to be taught in common schools, 175, sec. 3.
See *Schools*, *Literary fund*.
- EJECTMENT**, writ of, form, 462, sec. 8.
defendant in action of, not liable to arrest on mesne process, 477, sec. 6.
in action of, writ to be summons or attachment, 462, sec. 8.
- ELECTIONS**. *Aliens* not entitled to vote, 86, sec. 6.
Ardent spirits forbidden at, 80, sec. 19.
Arrest on day of, forbidden, 476, sec. 2.

ELECTIONS. (Continued.)

- Ballot* boxes to be provided, 88, sec. 7.
- Balloting*, how conducted, 88, sec. 10, 11.
- Ballots*, how many names to contain, 88, sec. 10, 11.
 - what names to contain, 88, sec. 8.
 - may be either written or printed, 88, sec. 8.
 - what to be counted as, 88, sec. 8.
 - to be delivered to the moderator, 88, sec. 9.
 - disposition of, when delivered, 88, sec. 9.
 - not to be received after vote declared, 88, sec. 18.
- Betting* on, penalty for, 98, sec. 6.
 - what to be deemed, 98, sec. 7.
 - money won by, may be recovered back, 98, sec. 8.
- Blanks* not to be counted as ballots, votes or tickets, 88, sec. 8.
 - what to be deemed, 88, sec. 11.
- Classed towns*, list of, 97, sec. 15.
 - meeting for election in, 98, sec. 6.
 - proceedings at election in, 98, sec. 7.
- Councillors*. See *Councillors*.
- County treasurer*. See *Treasurer*.
- officers, when to be chosen, 90, sec. 1.
- "*Dwelling*" and "*home*" defined, 86, sec. 6.
- Electors*, meeting for choice of, when holden, 98, sec. 1.
 - return of votes for, how made and transmitted, 94, sec. 2, 8.
 - to be laid before legislature, 94, sec. 4.
 - what persons to be declared elected, 94, sec. 4.
 - no choice of, proceedings, 94, sec. 5.
- Fines*, how recovered and appropriated, 98, sec. 2.
 - prosecutions for, limited, 98, sec. 3.
- Governor*. See *Governor*.
- "*Home*" and "*dwelling*" defined, 86, sec. 6.
- List of voters* to be posted up, 87, sec. 1.
 - how corrected, 87, sec. 2, 3.
 - in classed towns, 88, sec. 9, 11.
- Majority*, how determined, 88, sec. 13, 14.
- Meeting* for election of governor, councillors and senators, when holden, 90, sec. 1.
 - representatives in congress, when holden, 92, sec. 8.
 - for choice of electors, when holden, 98, sec. 1.
- Moderator*, duty of, on receiving ballots, 88, sec. 9.
 - to sort, count and declare the votes, 88, sec. 15.
 - fraudulent conduct of, penalty, 90, sec. 23.
- Peasners*, who to be deemed, 85, sec. 2.
- Penalty* for treating at, 89, sec. 19.
 - illegally influencing voters, 89, sec. 20.
 - voting, 89, sec. 21.
 - giving false answers, 89, sec. 21.
 - fraudulent conduct of selectmen, 90, sec. 22, 23.
 - moderator, 90, sec. 23.
 - other offences, 90, sec. 24.
 - neglect of town clerk or sheriff to return votes, 91, sec. 5; 98, sec. 11.
 - to return votes for electors, 94, sec. 10.
 - of town clerk or selectmen in relation to meetings for choice of representatives, 97, sec. 14.
 - refusal of town clerk to amend return, 98, sec. 5.
 - betting on elections, 98, sec. 6.
- Representation*, vacancy in, proceedings, 98, sec. 10.
- Representatives* in congress, meeting for choice of, when holden, 92, sec. 8.
 - meetings for choice of, how warned and governed, 92, sec. 4.
 - return of votes for, how made, 92, sec. 4.
 - election of, how effected, 92, sec. 5.
 - no choice of, proceedings, 92, sec. 6, 9.
 - votes for, how received, sorted, counted, &c., 92, sec. 7.
 - laid before governor and council, 92, sec. 8.

ELECTIONS. (Continued.)

- Representatives* to the general court, in towns not classed, meeting for choice of, when holden, 96, sec. 1.
 - certificate of election of, 96, sec. 2.
 - number of, how determined, 96, sec. 8.
 - note on margin of certificate of election of, in what cases, 96, sec. 4.
 - towns specially authorized to send, 96, sec. 6.
- to the general court, in towns classed, meeting for choice of, when holden, 96, sec. 6.
 - meeting for choice of, when and how called, 96, sec. 7.
 - warrant for, to be posted up, 96, sec. 8.
 - list of persons competent to vote for, to be posted up, 96, sec. 9.
 - sessions to be holden for correction of, 96, sec. 10.
 - copy of, to be filed with town clerk, 97, sec. 11.
 - meeting for choice of, proceedings at, 97, sec. 12.
 - in towns classed, meeting for choice of, proceedings at, 97, sec. 12.
 - when no town clerk, to fill vacancy, 97, sec. 13.
 - list of towns classed for choice of, 97, sec. 15.
- Result of election*, how determined, 88, sec. 13; 89, sec. 14.
- Return of votes*, blanks for, to be furnished, 66, sec. 2.
 - for governor, councillors and senators, 90, sec. 2; 91, sec. 3.
 - for representatives in congress, 92, sec. 4, 7.
 - for electors, 94, sec. 2.
 - fees of sheriff for, 98, sec. 9.
 - amendment of, how made, 98, sec. 4.
 - default in, to be certified to county solicitor, 98, sec. 1.
 - for governor, councillors and senators, neglect to make, penalty, 91, sec. 5.
 - for representatives in congress, neglect to make, penalty, 98, sec. 11.
 - for electors, neglect to make, penalty, 94, sec. 10.
 - penalty for neglect to make, how recovered, 98, sec. 2.
- Selectmen* to post up list of voters, 87, sec. 1.
 - to hold session for the purpose of correcting list, 87, sec. 2.
 - to give notice of session for correcting list, 87, sec. 2.
 - duties of, in relation to insertion and erasure of names, 87, sec. 3.
 - to be present at opening of meetings, 88, sec. 6.
 - to provide ballot boxes, 88, sec. 7.
 - to assist in counting votes, 88, sec. 12.
 - to enter ratable polls on back of check list, 89, sec. 18.
 - fraudulent conduct of, penalty, 90, sec. 22, 23.
 - duty of, at elections in classed towns, 96, sec. 7; 97, sec. 12.
- Senators*, meeting for election of, when holden, 90, sec. 1.
 - votes for, to be returned to secretary of state, 90, sec. 2.
- Statutes* to be present at town meeting, 89, sec. 17.
- Students*, where to vote, 86, sec. 9.
- Town clerk* to assist in counting votes, 88, sec. 12.
 - to check votes, 88, sec. 9.
 - to have statutes present at town meeting, 89, sec. 17.
 - to record votes given in, 89, sec. 15.
 - to transmit return of votes for governor, councillors and senators to secretary of state, 90, sec. 2.
 - to deliver such return to secretary of state or sheriff, when, 91, sec. 3.
 - for neglect of, penalty, 91, sec. 5.
 - to return votes for electors, 94, sec. 2.
 - for neglect of, penalty, 94, sec. 10.

ELECTIONS. (*Continued.*)

Town clerk to give certificate of election to representatives to general court, 95, sec. 2; 96, sec. 4.
 duty of, at elections in classed towns, 97, sec. 12, 13.
 to amend return in certain cases, 96, sec. 4.
 for neglect of, penalty, 96, sec. 5.
Town officers, 105, chap. 86.
Town meeting. See *Town meeting*.
Treating at elections, penalty, 89, sec. 19.
Unincorporated places, how conducted in, 111, sec. 1.

Voters, rights and qualifications of, 85, sec. 1.
 who are not to be deemed legal, 85, sec. 1.
 not to be deprived of right to vote, when, 86, sec. 4.
 residence of, not lost by temporary absence, 86, sec. 7.
 election of residence by, defined, 86, sec. 8.
 illegal attempts to influence, penalty, 89, sec. 20.
 allowed to vote, names accidentally omitted, 88, sec. 6.
 aliens not to be deemed, 88, sec. 5.

Votes, how sorted and counted, 89, sec. 15.
 majority of, how determined, 88, sec. 13; 89, sec. 14.
 public declaration and record of, to be made, 89, sec. 15.
Voting illegally, penalty, 89, sec. 21.
Words "dwelling" and "home" defined, 86, sec. 6.

ELECTORS of president, meetings for choice of, when holden, 93, sec. 1.
 returns of votes for, how made and transmitted, 94, sec. 2, 3.
 to be laid before legislature, 94, sec. 4.
 what persons to be declared elected, 94, sec. 4.
 when no choice of, proceedings, 94, sec. 5.
 to be notified to appear at Concord, when, 94, sec. 6.
 to appear at the state house, 94, sec. 7.
 vacancies in board of, how filled, 94, sec. 8.
 votes for president, when to be given, 94, sec. 9.

EMBEZZLEMENT of public funds, punishment, 543, sec. 4.
 by officers of banks, penalty, 538, sec. 34, 35.
 at fires is larceny, 253, sec. 7.
 of estates of deceased persons, 408, sec. 2.
 of property of wards, 403, sec. 3.
 search warrants may be issued to discover property embezzled, 556, sec. 12.

ENDORSEMENTS of writs on probate bonds, liability of, 423, sec. 5, 10, 11.
 on mesne process, liability of, 465, sec. 17; 466, sec. 18, 19.

ENGINES, how provided in village precincts, 259, sec. 7.

firewards to control, when, 253, sec. 3.
 chief engineer to control, when, 257, sec. 3.
 repairs of, how to be paid, 557, sec. 6.

ENGINE MEN, how appointed, 254, sec. 10.
 record of, to be kept, 254, sec. 10.
 time appointment continues in force, 254, sec. 11.

exempt from military duty, 254, sec. 11.
 powers and duties of, in village fire companies, 253, sec. 5.
 compensation for services, 256, sec. 23, 27.
 companies of, condition to be reported by commander, 256, sec. 27.

when under direction of firewards, 253, sec. 3.
ENGINEERS, board of, to be appointed by selectmen, 257, sec. 1.

to be substitute for board of firewards, 257, sec. 8.

chief of, his duties defined, 257, sec. 2, 3, 5.
 to make report to town, 257, sec. 5.

to have control of hook and ladder companies, 260, sec. 2.
 to keep in repair engines and apparatus, 257, sec. 6.

ENGINEERS. (*Continued.*)

their badge of office, what to be, 253, sec. 4.
 assistant engineers, their duties defined, 257, sec. 4.

ENGLISH LANGUAGE to be used in legal process, 462, sec. 1.

EPISCOPAL CHURCHES, property of, how held and conveyed, 393, sec. 11.

EQUITIES of redemption, how levied upon, 502, sec. 1, 2, 3, 4.

right of redeeming may be levied upon, 503, sec. 12.

EQUITY, powers of superior court concerning, 434, sec. 9; 435, sec. 19, 20.

ERROR, writs of, may be issued by superior court, 424, sec. 6.

limitation of, 461, sec. 7.

ESCAPE of prisoners under penalty, aiding, how punished, 556, sec. 9, 10.

of convict, aiding, how punished, 557, sec. 13, 14.

of debtor, penalty for allowing, 556, sec. 11.

action for money paid on account of, 460, sec. 12.

ESCHEAT not to operate in case of aliens, 293, sec. 4, 5.

of property for want of heirs to inherit, 463, sec. 7.

ESTATE in fee tail, conveyance of, 237, sec. 1.
 real, conveyance of, to two or more persons, how construed, 237, sec. 2.

alien may hold, convey or devise, 238, sec. 4.
 of alien not forfeited to the State by escheat, 238, sec. 5.

not to be encumbered by agreement without deed, 230, sec. 3.

in common, how created, 237, sec. 2.

in joint tenancy, how created, 237, sec. 2.

conveyance of, greater than owned by grantor, effect of, 238, sec. 6.

not to be created or conveyed except by writing or form of law, 230, sec. 12, 13.

of persons deceased, how taxed, 117, sec. 14.

of legatees or wards, when taxed, 117, sec. 15.

descent of. See *Descent*.

of deceased persons. See *Administrator*.

distribution of. See *Distribution*.

insolvent. See *Insolvent estates*.

EVIDENCE of entry for foreclosure of mortgage, what is, 232, sec. 16.

copy of record of marriage sufficient to prove, 376, sec. 11.

of marriage upon hearing for divorce, what is, 378, sec. 9.

of sale by guardian, how perpetuated, 383, sec. 32.

to prove existence of bank on trial for counterfeiting, 554, sec. 7.

in actions of review, further evidence may be used, 494, sec. 9.

in cases of usury, parties may be witnesses, 491, sec. 8.

in actions at law, 494, chap. 200.

See *Witnesses*, *Depositions*.

EXCHANGE of laws with other governments, provision for, 49, sec. 8.

EXECUTIONS against towns, how levied and collected, 505, chap. 211.

counties, how levied and collected, 73, sec. 4.

school districts, how levied and collected, 167, sec. 11.

Arrest of debtor's body upon, 503, sec. 1.

Direction of, by justice when property in another county, 462, sec. 6.

Forms of, 493, sec. 9, 10.

to be in English language, 462, sec. 1.

Homestead, exempt from levy of, 474, sec. 1.

Interest to be paid on, from judgment, 493, sec. 6.

Injunction on, to stay, 504, sec. 1.

not to effect lien, 504, sec. 1.
 proceedings suspended by injunction, 504, sec. 2, 3.

EXECUTIONS. (*Continued.*)

- Issue* of, not till 24 hours after judgment, 486, sec. 1.
- barred, if delayed two years, 486, sec. 5.
- of scire facias after two years, 486, sec. 7.
- one only to issue on same contract, 486, sec. 8.
- for seizure of property when debtor committed on original, 497, sec. 12; 509, sec. 9.
- against sheriff for default, 454, sec. 17, 18.
- Levies on personal property*, money, notes and bank bills, 498, sec. 2.
- goods and chattels, 498, sec. 3, 4.
- mortgaged property, 498, sec. 4.
- rights of redemption, 498, sec. 6.
- pews or seats in churches, 499, sec. 12.
- franchises, 499, sec. 13, 14.
- may be redeemed, how, 499, sec. 15.
- shares in corporations, 499, sec. 16, 19.
- treasurer to give officer account of shares owned by debtor, 500, sec. 20.
- Levies on real estate*, how made, 500, sec. 1.
- appraisers appointed, and proceedings, 500, sec. 2, 3, 4, 5, 6, 7, 8.
- on rents, how made, 501, sec. 10.
- possession delivered, 501, sec. 11.
- to be recorded, 501, sec. 11.
- redemption of real estate levied upon, 501, sec. 13.
- if levy fails, action may be brought on judgment, 459, sec. 4.
- Levies on equity* of redemption, how made, 502, sec. 1, 2, 3, 4.
- notice of sale, how given, 502, sec. 2, 3.
- redemption of, 502, sec. 5, 6.
- deed of, to be executed by sheriff, 508, sec. 7.
- to be recorded if interest is for term of more than seven years, 508, sec. 8.
- proceeds of sale, how applied, 508, sec. 9.
- purchaser liable for rents if debtor redeems, 508, sec. 10.
- Levies on executions against towns*, how made, 501, sec. 1.
- Notice of sale of personal property*, 498, sec. 3.
- of adjournment of sale, 498, sec. 11.
- of sale of pews, 499, sec. 12.
- franchises, 499, sec. 13.
- shares in corporations, 499, sec. 17.
- if debtor resides out of county, 499, sec. 18.
- of sale of real estate of corporations, 501, sec. 4.
- to debtor to appoint appraiser, 501, sec. 3.
- of sale of equity of redemption, 502, sec. 2.
- Penalty for fraud in sale of property*, 498, sec. 10.
- for not giving officer account of shares in corporation, 500, sec. 21.
- Property exempt* from, 498, sec. 2.
- Requisites* of, 492, sec. 2.
- Right of redemption* of any interest of debtor in real estate may be levied upon, 508, sec. 12.
- debtor to receive conveyance of real estate, may be levied upon, 508, sec. 13.
- Return on set-off* of real estate and record, 501, sec. 11.
- on sale of personal property, 499, sec. 19.
- of execution to court of common pleas, 496, sec. 3.
- to justices of peace, 496, sec. 4.
- to superior court, 496, sec. 2.
- Sale*, proceeds of, how applied, 498, sec. 5.
- to be applied in order of attachment, 496, sec. 8.
- may be adjourned not exceeding ten days, 496, sec. 11.
- Set-off* between parties, 498, sec. 1.
- Unsatisfied*, bill in equity may be instituted to discover property to levy on, 496, sec. 19.
- Writs of execution*, general form of, 496, sec. 10.
- of possession, form of, 496, sec. 11.

- EXECUTORS** of will, duty to prove or file in probate office with objections, 402, sec. 3.
- in their own wrong, liabilities of, 406, sec. 16.
- not to be executors of executors, 406, sec. 8.
- minors entitled to be, may be appointed on coming of age, 404, sec. 8.
- removal of, 406, sec. 10.
- See *Administrators*.
- EXECUTRIX**, marriage of, annuls trust, 406, sec. 9.
- EXEMPTION** of property from attachment and execution, 469, sec. 2.
- from doing military duty. See *Militia*.
- from serving as town officers, 108, sec. 9.
- as jurors, 447, sec. 8.
- of homestead from attachment. See *Homestead*.
- EXHIBITIONS**, what, not allowed without license, 283, sec. 1.
- EXTENTS** by State, county and town treasurer, 181, sec. 1.
- against railroads for non-payment of taxes, 114, sec. 7.
- collectors for neglect to collect taxes, 182, sec. 4, 5.
- selectmen neglecting to assess taxes, 182, sec. 3, 6.
- sheriff neglecting to collect non-resident tax, 181, sec. 9.
- towns for neglecting to choose assessors, 182, sec. 2.
- FALSE IMPRISONMENT**, how punished, 545, sec. 15.
- FALSE PRETENCE**, obtaining property by means of, punishment, 551, sec. 24.
- FALSE RETURN** by town clerk, how punished, 567, sec. 18.
- FEEs** for serving legislative notices, 46, sec. 8.
- for impounding cattle, &c., 306, sec. 19.
- for advertising and selling strays, 308, sec. 13.
- for measuring grain in Portsmouth, 247, sec. 3.
- Adjutants* for making return, 200, sec. 8.
- Clerks* of corporations, 313, sec. 27.
- of courts, 589, sec. 4.
- of C. C. Pleas for pedler's license, 282, sec. 8.
- of towns for recording mortgages, 691, sec. 18.
- taverner's license, 270, sec. 8.
- births, marriages and deaths, 284, sec. 1.
- lists of stockholders in corporations, 815, sec. 10.
- of military companies for recording enrolment, 186, sec. 10.
- Collectors*, for collecting taxes, 126, sec. 11.
- non-resident taxes, 129, sec. 19.
- Coroners* and constables, 591, sec. 22.
- for holding inquest over dead bodies, 592, sec. 22.
- Grand and petit jurors*, 591, sec. 20, 21.
- Illegal*, penalty for taking, 592, sec. 26; 180, sec. 21.
- indictment for taking, 592, sec. 26.
- Inspectors* of flour, 226, sec. 9.
- beef and pork, 228, sec. 16; 229, sec. 21.
- butter and lard, 232, sec. 6.
- fish, 238, sec. 14.
- pot and pearl ashes, 241, sec. 4.
- lumber and staves, 245, sec. 10.
- hops, 234, sec. 4.
- Jailors*, 591, sec. 16.
- Jurors*, 591, sec. 20, 21.
- before coroner, 592, sec. 22.
- Justices of the peace* in civil cases, 588, sec. 1.
- in criminal cases, 589, sec. 2.
- for taking depositions, 589, sec. 1.
- Notaries public*, 592, sec. 24.
- Officers* for recording and certifying, 589, sec. 3.
- Parties* in actions in superior court and C. C. Pleas, 590, sec. 5, 7.
- before justices of the peace, 590, sec. 6, 7.
- on default of, 590, sec. 8.

FEEES. (Continued.)

- Parties* in actions for travel in county, 590, sec. 9.
- on endorsed notes, 590, sec. 11.
- Penalty* for taking illegal, 592, sec. 25; 130, sec. 21.
- for not giving receipt for, when demanded, 592, sec. 28.
- Pilots*, for pilotage, 280, sec. 2, 4.
- Police officers*, 268, sec. 5.
- Receipt* for, to be given when requested, 592, sec. 27.
- Registers of deeds*, 591, sec. 17.
- of probate, 306, sec. 8.
- Road commissioners*, 141, sec. 11.
- Secretary of the State*, 592, sec. 28.
- Scales* of weights and measures, 249, sec. 3.
- Sheriffs* for return of votes, 99, sec. 9.
- for service of processes and executions, 590, sec. 14.
- to be endorsed on process, 591, sec. 15.
- Soldiers* detached for service in militia, 206, sec. 11.
- Solicitors*, 585, sec. 11.
- Witnesses*, 590, sec. 12.
- going out of the State, 487, sec. 31.
- when may be taxed against towns, 144, sec. 4.
- Weights* of beef, 230, sec. 28.
- FEMALES** not to be arrested for breach of contract, 476, sec. 1.
- FENCES**, penalty for throwing down, 526, sec. 8; 552, sec. 45.
- railroad, how made and maintained, 350, sec. 45.
- FENCES**, partition, making and repairs of, 300, sec. 1.
- division of, to be in writing and recorded, 300, sec. 2.
- if parties disagree, fence viewers to make division, 300, sec. 3.
- what are legal, 300, sec. 4.
- repairs of, fence viewers may direct, 301, sec. 5.
- if one party neglect, adjoining owner may build and repair, 301, sec. 6.
- built or repaired by adjoining owner, to be appraised by fence viewers, 301, sec. 7.
- double value and costs may be recovered, 301, sec. 8.
- of unimproved lands, how regulated, 301, sec. 9, 10, 11.
- party neglecting to build and keep in repair, liable for damage, 301, sec. 12.
- fence viewers to give notice of application to divide, 301, sec. 13.
- application to be in writing, 302, sec. 14.
- decision of fence viewers final, 302, sec. 16.
- FENCE VIEWERS**, their duties, 300, chap. 142.
- fees for services, 301, sec. 14.
- penalty for neglect to perform duty, 302, sec. 19.
- FENCES** of common fields, how made and maintained, 302, sec. 20 to 23.
- FERRIES** to be provided with boats and attendance, 155, sec. 1.
- penalty for neglect, 155, sec. 1.
- rates of ferriage established, 155, sec. 2.
- penalty for demanding higher rates, 155, sec. 3.
- FINES** for taking illegal fees, 592, sec. 25.
- for refusing to give bill of fees, 592, sec. 28.
- how recovered before justice of peace, 589, sec. 1.
- suits for, by interested prosecutor limited, 539, sec. 9; 98, sec. 3.
- prosecutor may be witness on trial, 539, sec. 10.
- sentence to pay, how executed, 539, sec. 12.
- may be remitted by selectmen, when, 539, sec. 11.
- how appropriated, 539, sec. 2; 98, sec. 2.
- actions for, to be brought in the county, 539, sec. 5.

FINES. (Continued.)

- for violation of election laws, how recovered and appropriated, 98, sec. 2.
- against towns, how collected, 144, sec. 2, 5.
- how applied, 144, sec. 6.
- imposed by justices to be paid over, when, 564, sec. 11.
- military. See *Militia*.
- FIRE COMPANIES**. Village fire companies, how formed, 258, sec. 1.
- meetings of, how notified and holden, 258, sec. 2.
- laws providing for fire companies to be adopted by towns, 258, sec. 3, 4.
- boundaries of village precincts, 258, sec. 1.
- records of, 258, sec. 1.
- voters of village precincts to choose engineer and other officers, 258, sec. 6.
- to prescribe their powers and duties, 259, sec. 6.
- to provide engines and other apparatus for extinguishing fires, 259, sec. 7.
- may vote to raise money, 259, sec. 7.
- annual meetings of, 259, sec. 8.
- firewards in village precincts, how appointed, 258, sec. 4.
- their powers and duties, 258, sec. 5.
- FIRE ENGINES**. See *Engines and Firewards*.
- FIRE INSURANCE**. See *Insurance companies*.
- FIREWARDS**, choice of, 106, sec. 4.
- selectmen to be, when, 106, sec. 4.
- board of, to have chairman and clerk, 253, sec. 1.
- appointment of, in village precincts, 253, sec. 4.
- their duties at fires, 253, sec. 2.
- badge of office, 253, sec. 2, 4.
- powers of, to control fire, hook and hose companies, 253, sec. 3.
- to extinguish fires in streets when dangerous, 253, sec. 6.
- to establish regulations respecting fire and combustibles, 254, sec. 8.
- regulations to be recorded and notice given, 254, sec. 8.
- to appoint enginemen and hosemen, 254, sec. 10.
- to search for and seize gunpowder, 259, sec. 1.
- to fix penalties not exceeding \$20, 254, sec. 9.
- to be furnished with means to carry law into effect, 256, sec. 24.
- to render to town an account of fires and expenses, 256, sec. 24.
- penalty for assuming to act as firewards, 253, sec. 6.
- for refusing to obey firewards, 253, sec. 6.
- how recovered and appropriated, 253, sec. 25.
- buildings may be demolished, when, 253, sec. 15.
- damages for, to be appraised and paid by town, 255, sec. 16.
- if town neglect, C. C. Pleas to take cognizance, 255, sec. 17.
- may be demolished when out of repair, 255, sec. 23.
- may be repaired if owner neglect, 255, sec. 21.
- notice of repairs required to be given, 255, sec. 18, 19, 22.
- how given in Portsmouth, 255, sec. 20.
- to be provided with ladders and buckets, 254, sec. 12.
- penalty for not providing, 254, sec. 12.
- town to furnish if occupant neglects, 254, sec. 13.
- tenant liable, and remedy over, 254, sec. 14.
- FIREWORKS** not allowed in state house yard, 51, sec. 3.
- FISH**, protection of, in artificial ponds, 553, sec. 31.
- FISH**, inspection of, 236, chap. 107.

FISH. (*Continued.*)

- intended for exportation to be inspected, 236, sec. 1.
- how packed and branded, 236, sec. 2.
- smoked fish, how packed and branded, 237, sec. 6, 7, 8.
- quality of barrels, tierces and casks, 237, sec. 9.
- mackerel, sorts and denominations of, 236, sec. 4.
- inspector to make returns to governor, 236, sec. 13.
- fees for inspecting and branding, 236, sec. 14.
- penalty for transporting fish not inspected, 239, sec. 18.
- not inspected may be seized, 239, sec. 19.
- penalty for branding fraudulently, 239, sec. 20.
- exporting or selling damaged fish, 240, sec. 22.
- FISHING VESSELS**, how and where taxed, 118, sec. 3; 116, sec. 7.
- FLOATING TIMBER** may be detained when on improved lands, 306, sec. 1.
- owner of land to advertise, 306, sec. 2.
- damages done by, to be appraised, 306, sec. 3.
- on payment, owner may remove, when, 306, sec. 4.
- if not removed, when forfeited, 306, sec. 5.
- damages and expenses may be recovered by action, 306, sec. 6.
- penalty for stopping timber, 307, sec. 8.
- taking and carrying away, larceny, 307, sec. 9.
- FLOUR**, inspection of, 223, chap. 103.
- inspector of, how appointed, 223, sec. 1.
- to be sworn and oath filed in secretary's office, 226, sec. 8.
- not to be interested in sale or manufacture, 224, sec. 7.
- may be re-inspected, when, 224, sec. 8.
- penalty for selling falsely marked, 224, sec. 4.
- altering or counterfeiting brand, 224, sec. 5.
- selling mixed, 224, sec. 6.
- fees for inspecting, 226, sec. 9.
- FOREIGN ATTACHMENT.** See *Trustee Process*.
- FORFEITURE** of grants. Construction of word *grant*, 517, sec. 1.
- grantee*, 517, sec. 2.
- grants, when adjudged forfeited, 517, sec. 3.
- effect of forfeiture, 517, sec. 4.
- attorney general to file information, when, 517, sec. 5.
- information directed to superior court, 518, sec. 6.
- process, how served, 518, sec. 7, 8.
- grantee defaulted, when, 518, sec. 10.
- may be heard in chancery, 518, sec. 11.
- judgment may be conditional, 518, sec. 12.
- copy of case to be returned to secretary of state, 518, sec. 14.
- improvements, when allowed, 519, sec. 15.
- when lands re-granted, conditions may be annexed, 519, sec. 17.
- complainant liable for costs, 519, sec. 20.
- FORFEITURE** of personal property, how may be seized, 540, sec. 1.
- person making seizure shall file libel before justice, 540, sec. 2.
- warrant shall be issued to take custody of property, 541, sec. 3.
- notice of libel, how issued and served, 541, sec. 4.
- property appraised and restored, when, 541, sec. 6.
- upon request of either party, case may be tried by jury, 541, sec. 7.
- appeal may be claimed by either party, 541, sec. 9.
- costs of trial, how awarded, 541, sec. 8.
- FORGERY**, how defined and punished, 553, sec. 1, 2.

FORGERY. (*Continued.*)

- penalty for passing or using forged paper, 553, sec. 2.
- FORNICATION**, how punished, 559, sec. 4.
- FORTUNE TELLING**, how punished, 268, sec. 2.
- FRANCHISES** taken for highways, 186, sec. 11.
- attachment of, how made, 471, sec. 15.
- sale of, on execution, 499, sec. 13, 14.
- FRAUD** by administrator in sale of real estate, penalty, 407, sec. 12; 418, sec. 12.
- in conducting elections, penalty, 90, sec. 23.
- and perjury, statutes of, 459, sec. 9.
- respecting wills, 402, sec. 5.
- FRAUDULENT** mortgaging or selling property, punishment, 560, sec. 20, 21.
- obtaining goods by false pretence, punishment, 551, sec. 24.
- by breach of trust, punishment, 551, sec. 25.
- FRUIT TREES**, malicious injury to, how punished, 552, sec. 28.
- FUEL** exempt from attachment, 469, sec. 2.
- FUGITIVES** from the county, arrest and trial of, 565, sec. 15, 16.
- from other states:*
- to be arrested, when, 566, sec. 1.
- charged with capital offence, to be committed, 567, sec. 2.
- with offence not capital, to recognise, 567, sec. 3.
- to be discharged, unless demanded, 567, sec. 4.
- to be taken on executive warrant, 567, sec. 5.
- complainant to pay costs of arresting, 567, sec. 6.
- demanded, prosecuting officer to make examination, 567, sec. 7.
- to be delivered up by governor, when and how, 567, sec. 8.
- may be carried through the State, how, 568, sec. 9, 10.
- powers of officers of other states in relation to, 568, sec. 11.
- persons obstructing officers having custody of, penalty, 568, sec. 12.
- FUNERAL CHARGES**, estates to be charged with, 407, sec. 14.
- when insolvent, special claims, 414, sec. 18.
- FURNITURE** exempt from attachment, 469, sec. 2.
- exempt from distress for taxes, 124, sec. 5.
- FUR ANIMALS**, protection of, 266, sec. 8.
- GAME**, preservation of, 266, sec. 8.
- GAMING**, offence against police of towns, 262, sec. 4.
- penalty for winning money at, 561, sec. 4, 5.
- by idle and disorderly persons, punishment, 263, sec. 2.
- in licensed houses, penalty, 270, sec. 3.
- GAMING HOUSES**, penalty for keeping, 561, sec. 8.
- GATES** on highways to be erected in what cases, 186, sec. 12, 13.
- may be removed, when, 186, sec. 14.
- license to keep up, how granted, 152, sec. 3.
- persons aggrieved by, may petition court for relief, 152, sec. 3.
- enclosing land, penalty for leaving open, 536, sec. 8.
- GENERAL ISSUE**, with brief statement, sufficient plea, 432, sec. 3.
- GOODS**, contract for sale of, when to be in writing, 459, sec. 10.
- when may be seized as forfeiture, 540, sec. 1.
- GOOD BEHAVIOR**, sureties for, in cases of police offences, 268, sec. 4.
- assault and battery, 558, sec. 1.
- disturbing religious worship, 272, sec. 8.
- GOVERNOR**, meetings for election of, when holden, 90, sec. 1.
- copy of record of votes for, to be returned, how, 90, sec. 2.

GOVERNOR, (Continued.)

duty to give elected members of congress certificates, 92, sec. 5, 8.
 to issue precepts for election of members of congress, when, 92, sec. 6, 9, 10.
 electors of president, 93, sec. 1.
 to notify electors to meet at state house, 94, sec. 6.
 in relation to fugitives from justice, 567, sec. 7, 8.
 may discharge insane offender, when, 576, sec. 31.
 transfer insane prisoner from jail to asylum, 578, sec. 31.
 duty in regard to literary fund, 194, sec. 2.
 state library, 53, sec. 8.
 asylum for insane, 57, sec. 10.
 salary of, 584, sec. 1.

GOVERNOR AND COUNCIL, ex officio board of visitors of the asylum for the insane, 57, sec. 10.

may appoint officers in anticipation of vacancies, when, 72, sec. 1.
 duty to appoint bank commissioners, 383, sec. 43.
 school commissioners, 189, sec. 1.
 trustees of the asylum, 55, sec. 2.
 land commissioners, 53, sec. 1.
 inspectors, 223, sec. 1; 223, sec. 1.
 commissioners of pilotage, 279, sec. 1.
 to remove sheriff from office, when, 454, sec. 18.
 in regard to surplus revenue, 55, sec. 7.
 asylum for the insane, 57, sec. 10.
 state prison, 580, sec. 5.

GRACE, when allowed on bills, notes and drafts, 460, sec. 11.**GRAFTON COUNTY, boundaries of, 74, sec. 7.**

Judicial districts in, 76, sec. 12.

GRAND JURY. See Jury.**GRANTS, construction of word, 617, sec. 1.****GRAVE STONES, malicious injury to, how punished, 590, sec. 11.**

administrator may erect, when, 406, sec. 16.

GRIST MILLS, tolls for grinding, regulated, 289, sec. 10.

penalty for taking illegal tolls by owner, 300, sec. 11.

GUARDIAN AND WARD, guardian to furnish arms and equipments to ward, 304, sec. 9.

guardian to pay fine for ward giving false answers to evade doing military duty, 198, sec. 6.

guardian to recover penalty for illegally joining in marriage, 376, sec. 9.

to sign libel for divorce of ward, 378, sec. 7.
 appointed by court, if libellee insane, 378, sec. 8.

wife of alien living separate from her husband, till after divorce, to be, 381, sec. 6.
 wife to be guardian of her children, 380, sec. 4.

may be appointed to prevent alien from forcibly removing child, 381, sec. 8.
 wife of ward may join with in making conveyance of real estate, 381, sec. 9.

minor, guardian of, may be appointed by judge of probate, 384, sec. 1, 2.
 if above age of fourteen, may select guardian, 384, sec. 2.

general power and duties of guardian of, 384, sec. 3.
 who may be appointed guardian of, 384, sec. 4.

powers of married woman as guardian of, 384, sec. 5.
 marriage of female guardian of, effect, 384, sec. 6.

guardian may sell property of absent parent for support of, 385, sec. 7.
 to appropriate proceeds of such sale, in what manner, 385, sec. 8.

mother of, dying, new guardian to be appointed, 385, sec. 9.

GUARDIAN AND WARD. (Continued.)

minor, mother of, dying, new guardian to receive balance in her hands, 385, sec. 9.
 spendthrifts, who are deemed, 385, sec. 12.
 guardian of, to be appointed, 385, sec. 12.
 to give notice of appointment, 386, sec. 17.

to return true and perfect inventory, 386, sec. 18.

general duties of, 386, sec. 19.
 may be authorized by judge to sell personal estate, 386, sec. 21.

estate of, may be deemed insolvent, 388, sec. 30.

balance of claims to survive against estate of, 388, sec. 31.

insane person, guardian of, to be appointed upon requisition had, 385, sec. 10, 11.
 give notice of appointment, 386, sec. 17.

return true and perfect inventory, 386, sec. 18.

sell personal estate when authorized by judge, 386, sec. 21.

estate of, may be deemed insolvent, 388, sec. 30.

balance of claims to survive against estate of, 388, sec. 31.

guardian to give bond for faithful discharge of duty, 386, sec. 14.

general duties of, 386, sec. 15.

to prosecute and defend for ward, 386, sec. 16.

may be licensed to sell real estate, 387, sec. 23.

to take oath before making sale, 387, sec. 24.

if bond of, not sufficient, additional bond may be ordered before sale, 387, sec. 25.

may execute conveyance to highest bidder, 387, sec. 26.

license to, not available unless sale made, when, 387, sec. 27.

of married persons, powers and duties of, in relation to sales, 387, sec. 28.

may petition to have evidence of sale perpetuated, 388, sec. 32.

proceeds of sale by, how divided between guardian of husband and guardian of wife, 387, sec. 29.

foreign, may be licensed to sell estate of ward in this State, 388, sec. 33.

to give bond, 388, sec. 33.

rights and liabilities of, in relation to sale, 388, sec. 33.

may be removed, 389, sec. 34, 35.

to be allowed a reasonable compensation, 389, sec. 36.

to have lien upon estate of ward, 389, sec. 36.

ad litem may be appointed, 389, sec. 37.

bond of, may be required, 389, sec. 37.

to take receipt of ward, 389, sec. 38.

may be cited to file such receipt in probate office, 389, sec. 39.

neglect of, upon such citation, penalty, 389, sec. 39.

may bind ward under age of fourteen as apprentice, 390, sec. 1.

duty of, in relation to ward bound out, 390, sec. 7.

guardianship may be revoked, when, 389, sec. 35.

ward, how to sue and be sued, 386, sec. 16.

sale or contract of, made during guardianship, void, 386, sec. 20.

after notice of application for appointment of guardian, void, unless, 386, sec. 21.

sale, evidence of, how perpetuated, 388, sec. 32.

how made by guardians of husband and wife, 387, sec. 28.

proceeds of, in such cases to be equitably divided, 387, sec. 29.

GUIDE BOARDS, regulations concerning, 154, chap. 63.

GUNPOWDER, police regulations concerning, 290, chap. 118.

HABEAS CORPUS, writ of, jurisdiction, 424, sec. 6.

who, of right, entitled to, 512, sec. 1.
who, not of right, entitled to, 512, sec. 2.
application for, how made, 512, sec. 3, 4.
granted or denied, when, 512, sec. 5.
applicant for, admitted to bail, when, 512, sec. 6.

required to recognize, 515, sec. 20.

to be heard, when, 515, sec. 21.

to be discharged, when, 515, sec. 22.

committed for bailable offence, may be ad-

mitted to bail, 515, sec. 23.

committed on meane process, may be dis-

charged on giving reasonable bail, 515, sec. 24.

refusal to give copy of process to, penalty,

516, sec. 25.

granted without copy of precept, when, 512,

sec. 7.

form of, 512, sec. 8.

seal, teste, &c., of, 514, sec. 9.

issued by court, when, where, and to whom

returnable, 514, sec. 10.

justice, when, where, and to whom return-

able, 514, sec. 11.

to be made returnable so as to secure easy,

expeditious and cheap remedy, 514, sec. 12.

court or justice awarding, may require bond,

514, sec. 13.

service and return of, how made, 514, sec. 14,

15.

general duty of person serving, 514, sec. 16.

when to be served, 515, sec. 17.

issued by justice, may be returned to court

or other justice, 515, sec. 18, 19.

person refusing obedience to, penalty, 516,

sec. 26.

false return of, penalty, 516, sec. 27.

court may compel obedience to order in rela-

tion thereto, 516, sec. 28.

may punish disobedience thereof, as for con-

tempt, 516, sec. 23.

person discharged upon, not to be again im-

prisoned for same offence, unless, 516, sec.

29.

officer arresting person discharged upon, pen-

alty, 516, sec. 29.

actions relating to, limited, 516, sec. 30.

not lost by death, 516, sec. 31.

HARBOR of Piscataqua. See *Pilots*.

HAY, one and a half ton of, exempt from at-

tachment, 469, sec. 2.

HAWKERS AND PEDDLERS, peddling without

license, prohibited, 281, sec. 1.

License may be granted to, by clerk of C. C.

Pleas, 282, sec. 3.

to be recorded, 282, sec. 3.

amount to be paid for, 282, sec. 4, 5.

not transferable, 282, sec. 6.

must be exhibited if demanded, 282, sec. 6.

offenders to be examined before justice of the

peace, 282, sec. 7.

penalty for peddling without license, 281, sec.

1.

not to apply to citizens of the State who

are unable to work, 281, sec. 2.

nor to peddle home manufactured articles,

281, sec. 2.

HEALTH OFFICERS, to make regulations for

removal of nuisances, 273, sec. 1.

regulations of, to be recorded and published,

273, sec. 1.

to be approved by selectmen, 278, sec. 1.

powers of, to remove nuisances injurious to

public health, 278, sec. 3.

to examine places suspected to be injurious

to health, 278, sec. 4.

to employ officers and assistants, 274, sec. 4.

to remove nuisances without notice in cer-

tain cases, 274, sec. 5.

general, 275, sec. 12.

HEALTH OFFICERS. (*Continued.*)

powers of, general, to license inoculation in

certain cases, 276, sec. 6.

to remove persons sick with pestilential

disease, 276, sec. 2.

to make quarantine regulations, 277, sec. 1.

to seize goods landed without permission,

277, sec. 3.

to notify pilots of quarantine regulations,

278, sec. 12.

to notify the commander of any port near,

279, sec. 13.

slaughter houses and other offensive build-

ings, not to be occupied without license

from, 274, sec. 8.

removing nuisance, owner to pay expense,

274, sec. 6.

compensation of, 275, sec. 13.

to render an account to selectmen, 275, sec.

13.

HEIRS, joint, are to be deemed tenants in com-

mon, 263, sec. 2.

of alien, may inherit real estate, 263, sec. 4.

where notice required, how cited, 268, sec. 2.

See *Descent*.

HIGHWAYS AND BRIDGES, of, 134-156.

Agents appointed to build, 144, sec. 6.

to superintend collection of fines, 144, sec.

6.

to return doings to court, 144, sec. 6.

Alteration of streets, damages occasioned by,

136, sec. 13, 20.

Apportionment of expense of constructing, when

made, 141, sec. 1.

Assessment for making and repairing, 146, sec.

1.

Boundary line between towns to be established

in highways across streams, 140, sec. 10.

Bridges, by-laws to prevent fast riding over,

153, sec. 1.

penalties for riding over faster than a walk,

153, sec. 1.

toll, proprietors of, may make by-laws, 153,

sec. 2.

board containing by-laws, to be posted up

at end of, 153, sec. 3.

covered, travelled part of, to be covered

with snow in winter, 153, sec. 4.

towns and corporations neglecting require-

ments concerning, penalty, 153, sec. 5.

Buildings, when nuisances, 152, sec. 1.

how removed, 152, sec. 1.

Corporation, property of, may be taken for, 136,

sec. 11.

Costs upon appeal from assessment of damages,

138, sec. 9.

upon application to court, where no notice

given, 139, sec. 10.

upon appeal from award of road commis-

sioners, 140, sec. 8.

of laying out, widening, &c., how paid,

143, sec. 9, 10.

upon indictment, 144, sec. 3, 5.

to whom paid, 144, sec. 5.

of laying out, not in any town, by whom

paid, 143, sec. 1.

upon petition for redress, where road dis-

continued, 145, sec. 8.

Damages not to be awarded, when, 136, sec. 2.

for land taken, to be awarded by select-

men, 136, sec. 16.

by alteration of streets, how assessed, 136,

sec. 15, 19.

persons aggrieved by assessment of, may

petition court, 137, sec. 20.

for land taken by selectmen, persons ag-

grieved by assessment of, may petition

court, 138, sec. 9.

to be awarded by court to persons having

no actual notice, 139, sec. 10.

assessed by road commissioners, 140, sec. 7.

land owner dissatisfied with, may appeal,

140, sec. 3.

to be paid before road made or altered, ex-

cept, 142, sec. 1.

HIGHWAYS AND BRIDGES. (Continued.)

Damages need not be paid, in what cases, 142, sec. 2.
 may be recovered in thirty days after demand, 142, sec. 3.
 action for, in cases of discontinuance, limited, 143, sec. 4.
 amount of, recovered in cases of discontinuance, 143, sec. 5.
 execution for, may issue, when, 143, sec. 6.
 by whom to be paid, 143, sec. 7.
 paid by county, when, 143, sec. 8.
 paid by neighboring towns, when, 141, sec. 1.
 upon petition for redress in cases of discontinuance, 145, sec. 3.
 by reason of obstructions, &c., town liable for, 143, sec. 1.
 town paying, to have remedy against surveyor, 149, sec. 2.
 town not liable for, weight of load exceeding five tons, 149, sec. 3.
 weight exceeding three tons, unless, 149, sec. 4.
 to droves, number on bridge exceeding twenty-five, 150, sec. 5.
 to droves on bridge, burden of proof on plaintiff, 150, sec. 6.
 occasioned by snow, town liable for, 150, sec. 7.
Discontinuance, how effected, 145, sec. 1.
 vote of, not to be effectual, without, 145, sec. 2.
 redress of persons injured by, 145, sec. 3.
 action for damage in case of, limited, 143, sec. 4.
 actual damage only recovered, in case of, 143, sec. 5.
Encroachments, what are, 152, sec. 1.
 to be deemed nuisances, when, 152, sec. 1.
 persons erecting or continuing, to be fined, 152, sec. 1.
 to be removed by order of court, 152, sec. 1.
 what shall not be deemed, 152, sec. 2, 3.
Encumbrances, what are, 151, sec. 1.
 to be removed by surveyor, 151, sec. 1.
 how removed, 151, sec. 2, 4.
 liability to indemnify town for damages occasioned by, 151, sec. 5.
Expenses, when paid by individuals, and when by the public, 143, sec. 7.
 to be apportioned in certain cases, 141, sec. 1.
 apportioned, money, how raised, 142, sec. 3.
 execution to issue for, 141, sec. 1.
 paid by county, when, 143, sec. 8.
 of repairs may be paid by county, when, 147, sec. 19.
 to town, or repairs made by county, 147, sec. 20.
 of making highway not in any town, how paid, 143, sec. 2.
Fees for witnesses, not taxed against towns, except, 144, sec. 4.
Fences, when nuisances, 152, sec. 1.
Ferries, boats to be provided at all times, 155, sec. 1.
 penalty for neglect, 155, sec. 1.
 rates of ferriage, how established, 156, sec. 2.
 penalty for demanding higher rates, 156, sec. 3.
Fines imposed on towns, in what cases, 144, sec. 1.
 how levied and collected, 144, sec. 2-5.
 how applied, 144, sec. 6.
 to whom paid, 144, sec. 5.
 for encroachments on highways, 152, sec. 1.
 for demanding more than legal ferriage, 156, sec. 3.
 for neglect to comply with requirements respecting bridges, 153, sec. 5.
 for neglect to turn to the right, 155, sec. 2.
Gates, when to be erected, 136, sec. 12, 13.
 removed, 136, sec. 14.

HIGHWAYS AND BRIDGES. (Continued.)

Gates, license to keep, granted by selectmen, 153, sec. 3.
 persons aggrieved by license to keep, may petition court, 153, sec. 4.
Grade of road may be prescribed in report, 140, sec. 9.
Guardians appointed for the purpose of serving notice, 136, sec. 4.
Guide boards to be erected and kept in repair, 154, sec. 1.
 may be dispensed with, when, 154, sec. 1.
 penalty for neglect to erect and keep in repair, 154, sec. 2.
 action for, not to be commenced till notice, 154, sec. 2.
 punishment for injuries to, 154, sec. 3.
Hearing appointed by selectmen, 136, sec. 2.
 road commissioners, 139, sec. 2.
Highways may be laid out across any river or stream, 136, sec. 10.
 over or across existing highways, 136, sec. 9.
 or bridges not to obstruct boats, rafts, &c., 136, sec. 10.
 property of corporations may be taken for, 136, sec. 11.
 across rivers, boundary line to be established by road commissioners, 140, sec. 10.
 not to be made till damages paid, 142, sec. 1.
 public, what to be deemed, 144, sec. 7.
 at railroad crossings. See *Railroads*.
 not in any town, how made and repaired, 143, sec. 1, 2.
 notice describing, to be issued by court, 143, sec. 2.
 to be kept passable by owners of land, 143, sec. 2.
 if not made, court to assess land, 143, sec. 3.
 tax to be advertised by county treasurer, 143, sec. 4.
 if tax not paid, land to be sold, 143, sec. 6.
 deed to be given by county treasurer, 143, sec. 7.
 land sold may be redeemed, 143, sec. 7.
 money applied to repair, 149, sec. 8.
 court may cause to be kept in repair, 149, sec. 9.
 repairs of, may be made by owners of land, proceedings, 149, sec. 10.
Indictment for neglect to grade or alter, 140, sec. 9.
 pay expense apportioned, 142, sec. 2.
 make or repair, 144, sec. 2.
 comply with requirements of law relating to bridges, 153, sec. 5.
Injuries to, how punished, 150, sec. 1.
 persons committing, liable for damage, 150, sec. 2.
 railroads, how punished, 150, sec. 3.
Law of the road, 155, sec. 1-4.
Notice by selectmen, how given, 136, sec. 2-6.
 on petition for discontinuance of gates, 138, sec. 14.
 upon application to assess damages in certain cases, 137, sec. 19.
 issued by clerk on filing petition, 138, sec. 2, 3.
 not given, persons may apply to court, 139, sec. 10.
 by road commissioners, 139, sec. 2.
 by surveyors of highways, 146, sec. 5.
Penalty for neglect to erect guide boards, 154, sec. 2.
 for neglect of ferryman, 155, sec. 1.
 for demanding more than legal ferriage, 156, sec. 3.
Petitions for, to selectmen, 136, sec. 1.
 to court of common pleas, in what cases, 137, sec. 1.

HIGHWAYS AND BRIDGES. (Continued.)

Positions, order of notice upon, and service, 133, sec. 2.
service of, how made, 133, sec. 2, 3.
referred to road commissioners, 133, sec. 4.
referred to a joint board, when, 133, sec. 5.
copy of, furnished road commissioners, 133, sec. 5.
Private ways, gates on, when to be erected, 136, sec. 12, 13.
removed, 133, sec. 14.
Railroad, injuries to, how punished, 150, sec. 3.
crossings, highways at. See Railroads.
Repairs, money necessary for, may be raised, 143, sec. 1.
prices for, determined by town, 143, sec. 2.
portion of expense of, may be paid by county, 147, sec. 19.
may be made by county, or money paid town, 147, sec. 20.
of highways not in any town, how made, 143, sec. 1, 8; 149, sec. 9, 10.
may be made by order of court, 149, sec. 9.
owners of lands may vote and levy money for, 149, sec. 10.
Report by selectmen laying out, 133, sec. 15, 16, 17.
by selectmen assessing damages by alteration of street, 137, sec. 19.
by joint board of road commissioners, 133, sec. 5.
may be recommitted, 133, sec. 7.
of road commissioners, when to be made, 133, sec. 4.
what to contain, 140, sec. 5, 6, 7, 9.
returning wrong name of land owner, remedy, 140, sec. 5.
acceptance of, effect, 140, sec. 9.
Road commissioners may lay out highway subject to erection of gates, 133, sec. 12.
to form a joint board, when, 133, sec. 5.
member of, interested, not to serve, 133, sec. 3.
vacancy in board of, how filled, 133, sec. 6.
proceedings on report of, 133, sec. 7.
to continue in office as to proceedings commenced, 133, sec. 8.
to appoint time and place of hearing, 133, sec. 1.
to give notice, in what manner, 133, sec. 2.
member of, unable to attend, vacancy, how filled, 133, sec. 2.
to make examination and hear the parties, 133, sec. 3.
to make report to the court, 133, sec. 4.
report of, what to contain, 140, sec. 5, 6.
returning wrong name of land owner, remedy, 140, sec. 5.
to return assessment of damages to town clerk, 140, sec. 7.
may prescribe in report, grade or rise and fall, 140, sec. 9.
to establish boundary line in laying out highways across rivers, 140, sec. 10.
compensation of, 141, sec. 11.
may apportion expense of building, in what cases, 141, sec. 1.
Selectmen, power of, to lay out, widen and straighten, 135, sec. 1.
to appoint time and place of hearing, 135, sec. 2.
to give notice, how, and to whom, 135, sec. 2-3.
to make examination and hear the parties, 135, sec. 7.
to lay out, widen and straighten, in what manner, 135, sec. 8, 9.
not to allow damages in certain cases, except, 135, sec. 9.
may direct the erection of gates and bars, 135, sec. 12, 13.
may cause gates to be removed, when, 135, sec. 14.
to make return of laying out, 133, sec. 15.

HIGHWAYS AND BRIDGES. (Continued.)

Selectmen to assess damages, and in what manner, 133, sec. 16.
to describe land, where owner unknown, 133, sec. 17.
to assess damages, caused by alteration of, 137, sec. 19.
to determine price of labor, utensils, &c., applied in making repairs, 143, sec. 2.
to appoint surveyors in case of no election, 143, sec. 3.
to limit surveyors' districts, and furnish list of taxes, 143, sec. 4.
to cause unexpended balance of tax in one district to be worked out in another, 143, sec. 11.
may permit taxes to be expended on private ways in certain cases, 147, sec. 12.
may direct taxes not needed in one district to be worked out in another, 147, sec. 17.
powers and duties of, in relation to encumbrances from snow, 150, sec. 7.
may license to keep gate on highways in certain cases, 152, sec. 3.
Snow, town and surveyor liable for damages caused by encumbrances from, 150, sec. 7.
Surveyors to be chosen, 143, sec. 3.
districts of, to be limited, 143, sec. 4.
to notify persons named on list, 143, sec. 5.
in cases of emergency may direct immediate attendance, 143, sec. 6.
to levy by distress in case of neglect, 143, sec. 7.
may order delinquents to work at another time, 143, sec. 8.
to render account and pay over balance, 143, sec. 9.
neglect of, to render account, proceedings, 143, sec. 10.
to purchase materials for repairs of, 147, sec. 15.
to remove gravel, sand or rocks, 147, sec. 16.
not to make uncovered trench opposite dwelling house, 147, sec. 16.
to allow for time in going to and returning from work, 147, sec. 18.
Liable for damage occasioned by neglect, 143, sec. 2.
duties of, in relation to encumbrances by snow, 150, sec. 7.
to remove encumbrances, 151, sec. 1.
to notify owner in such cases, 151, sec. 2.
to complain to a justice of the peace, 151, sec. 2.
power of, in making sale of encumbrances, 151, sec. 4.
Taxes for making and repairing, how raised and assessed, 143, sec. 1.
for paying expenses apportioned by road commissioners, to be raised, 142, sec. 3.
balance of, in one district to be worked out in another, 143, sec. 11.
may be expended on private ways in certain cases, 147, sec. 12.
towns may order to be paid in money, 147, sec. 13.
how paid over and expended in such cases, 147, sec. 13.
not needed in one district may be worked out in another, 147, sec. 17.
for building highway not in any town, to be advertised, 143, sec. 4.
in such cases, may be paid by owner of any interest in the land, 143, sec. 5.
if not paid, in such cases land to be sold, 143, sec. 6.
redemption of land sold for, 143, sec. 7.
avails of land sold for, how applied, 149, sec. 8.
Travelers to turn to the right, 155, sec. 1.
penalty for violation, 155, sec. 2.
Turning to the right, law of, 155, sec. 1.
penalty for violation, 155, sec. 2.

HIGHWAYS AND BRIDGES. (*Continued.*)

Turning to the right, complaint for violation of law of, limited, 155, sec. 3.
action for damages limited, 155, sec. 4.
Unincorporated places, roads in, how made, 148, sec. 1, 2.
how repaired, 148, sec. 1, 2.
assessments on, 148, sec. 3.
tax, how collected, 148, sec. 4, 5, 6, 7.
money, how applied, 149, sec. 8.
court may repair, 149, sec. 9.
owners of land may make and repair, 149, sec. 10.

Weight of load upon carriage regulated, 149, sec. 8, 4.

Wheels, width of, regulated, 149, sec. 4.
Witnesses' fees, when taxed, 144, sec. 4.

HILLSBOROUGH COUNTY, boundaries of, 74, sec. 4.**HIRING to commit crimes, penalty, 562, sec. 4.****HOGS, killing or injuring, penalty, 549, sec. 11; 560, sec. 12.**

larceny of, how punished, 549, sec. 12.
exempt from attachment, to what number, 460, sec. 2.

not to be deemed strays, when, 303, sec. 12.
may be impounded when, 303, sec. 1.
by-laws may be made restraining, 100, sec. 7.

HOGREEVES, choice of, 106, sec. 7.

Oath of, 107, sec. 1, 2.

vacancy in office of, how filled, 109, sec. 6.

HOMESTEAD of families exempt from attachment, &c., in what cases, 474, sec. 1.

to what value, 474, sec. 1.
not assets in hands of administrator, 474, sec. 1.
not subject to laws of distribution or devise, when, 474, sec. 1.
exemption of, how waived or released, 474, sec. 1.

to extend to any interest in land or building, 474, sec. 2.

levy upon, how made, 474, sec. 8.
court may order reappraisal of, when, 476, sec. 5.

how disposed of, when division cannot be made without injury, 476, sec. 4.

not exempt from attachment, in what cases, 476, sec. 5, 7.

conveyance of, not valid unless wife join in deed, 476, sec. 6.

husband may mortgage for payment of purchase money, 476, sec. 6.

HOOK AND LADDER COMPANIES, how organized, 269, sec. 1.

number of men in, how approved, 269, sec. 1.
to be under control of board of engineers, 260, sec. 2.

exempt from military duty, 260, sec. 2.
compensation of, 260, sec. 2.

HOOPS, survey of, 243, sec. 3.**HOPES, not to be exported before inspection, 234, sec. 1.**

when merchantable and how packed, 234, sec. 2.

how inspected and marked, 234, sec. 3.

Inspector of, fees, 234, sec. 4.

to have lien for fees, 234, sec. 4.

neglect of, penalty, 234, sec. 5.

fraud of, penalty, 234, sec. 6.

counterfeiting mark of, 235, sec. 8.

appointment of, 233, sec. 1.

includes deputy, 233, sec. 7.

Intermixing for shifting, penalty, 235, sec. 7.

emptying bag of, and putting in other hops, penalty, 235, sec. 9.

not to be shipped without producing certificate of inspector, 235, sec. 10.

master producing certificate, to make oath, 235, sec. 11.

not marked, person exporting, penalty, 235, sec. 12.

not inspected, shipped, may be seized, 235, sec. 13.

conveyed by inland carriage excepted, 235, sec. 14.

HORSES, how taxed, 112, sec. 3.

to whom taxed, 116, sec. 6.

stud. See *Stud Horses*.

killing or injuring, penalty, 549, sec. 11; 560, sec. 12.

larceny of, how punished, 549, sec. 12.

asses, mules, &c., towns may make by-laws respecting, 100, sec. 7.

taken up as strays, 307-308, sec. 1-12.

impounding of, 308-305, sec. 1, 21.

HOSE COMPANIES. See *Firewards*.**HOSE MEN. See *Firewards*.****HOSPITAL. See *Asylum*.**

for small pox, regulations concerning, 276, sec. 4.

HOUSE OF REPRESENTATIVES, pay of members, 587, sec. 20.**HOUSE OF CORRECTION, for county or town, how provided, 268, sec. 1.**

if no house provided, common jail, to be, 268, sec. 2.

officers of, how appointed, and by-laws, 268, sec. 1.

persons sent to, how punished, 268, sec. 1.

vagrants and other disorderly persons may be committed to, 268, sec. 2.

justices of the peace may commit offenders, 268, sec. 3.

persons found committing offences may be committed, 269, sec. 5.

convicted may appeal, 268, sec. 4.

HOUSES, gaming. See *Gaming*.

licensed. See *Licensed houses*.

HUSBAND AND WIFE, wife deserted, may hold property to her separate use, 380, sec. 1.

may dispose of same, 380, sec. 1, 2.

property to be sold by order of judge of probate, 380, sec. 2.

proceeds of such sale, how applied, 380, sec. 2.

wife holding property in her own right may make contracts, sue and be sued, 380, sec. 3.

wife dying, husband to have no share, 380, sec. 3.

wife of alien, or citizen of another state, living separate from the husband, rights of, 380, sec. 4.

after divorce, rights of, 381, sec. 6.

wife, conveyance by and to, how made, husband under guardianship, 381, sec. 9.

may join with husband in conveyance of real estate, 381, sec. 10.

in release of dower, though not of age, 381, sec. 10.

may devise her real estate, 381, sec. 11.

will of, not to affect rights of husband, 381, sec. 11.

may hold to her own use property devised or conveyed after marriage, 382, sec. 12.

conveyance of, in such cases, to be recorded, 382, sec. 14.

may sue and be sued in relation to her separate property, 382, sec. 15.

husband coming into this State and cohabiting with wife, rights of, 380, sec. 5.

not to convey property to wife, 382, sec. 16.

wife of alien, living separate, forcible removal of child by husband forbidden, 381, sec. 7.

in such cases, court to issue injunction, 381, sec. 8.

may appoint guardian, 381, sec. 8.

may make decrees necessary to secure custody of such child, 381, sec. 8.

agreement may be made before marriage that wife shall hold property to her separate use, 382, sec. 12.

wife dying intestate, rights of husband, 383, sec. 17.

husband to take administration, 383, sec. 17.

to hold property subject to her debts, 383, sec. 17.

HUSBAND AND WIFE. (*Continued.*)

wife upon petition of, superior court to appoint trustee, 383, sec. 18.
to convey property to trustee in such case, 383, sec. 18.
rights, powers and duties of such trustee, 383, sec. 18.
property assigned to such trustee liable to attachment, 383, sec. 18.
wife, how affected by provisions relating to limitations of actions, 461, sec. 8.
husband absent from State, property may be sold for support of wife and child, 386, sec. 7.
both under guardianship, powers and duties of guardian in relation to sale, 387, sec. 28.
rights and liabilities of, in and to mills and mill dams, 290, sec. 5.
See Divorce, Marriage and Homestead.

IDIOT included in the words "insane" or "insane person," 46, sec. 15.

IDLERS. *See Houses of Correction.*
may be set to work or bound out, 158, sec. 4, 5.

ILLEGITIMATE children. *See Bastard Children.*
settlement of, 158, sec. 1.

IMPOTENCY, a cause of divorce, 377, sec. 3.

IMPOUNDING. *See Pounds.*

IMPRISONMENT, limitation of action for, 461, sec. 8.

solitary, how inflicted, 574, sec. 11.

for life, consequences of, 575, sec. 17.

false, how punished, 546, sec. 15.

on execution. *See Arrest.*

INCEST defined, how punished, 559, sec. 7.

INDENTURES. *See Apprentices.*

INDEX of attachments, town clerk to keep, 460, sec. 5.

INDICTMENT to be in the English language, 462, sec. 1.

in what cases necessary, 572, sec. 1.

copy of, to be given on capital trial, 573, sec. 2.

on second or third conviction, 574, sec. 15.

to allege intent to defraud, how, 575, sec. 21.

for treason, limitation of, 548, sec. 3.

for perjury, how to set forth offence, 555, sec. 4.

of public officers for taking illegal fees, 592, sec. 26.

INFECTIOUS DISEASES. *See Health Officers.*

INHABITANTS, meaning of word, 44, sec. 5.

taxable where they reside on the first day of April, 117, sec. 18.

to have contribution when property levied upon for taxes, 123, sec. 12.

INJUNCTIONS, jurisdiction of, by superior court, 484, sec. 10.

against suspended banks, 324, sec. 21.

creditors of banks, 326, sec. 31.

railroads, 348, sec. 42.

insurance companies, 373, sec. 12, 13.

to stay levy of executions, 504, sec. 1, 2, 3.

INOCULATION. *See Small Pox.*

INQUEST. *See Coroner.*

INQUISITION of insanity, when to be had, 386, sec. 10, 11.

INSANE, who are deemed, 45, sec. 15.

guardian of, to be appointed, upon inquisition, 386, sec. 10, 11.

how affected by limitation of actions, 461, sec. 8.

offenders acquitted, how disposed of, 575, 576, sec. 24, 29.

how supported at asylum, 576, sec. 26, 30.

how discharged, 576, sec. 26, 31.

committed to custody of friend, how, 576, sec. 27.

offenders may plead guilty by reason of insanity, 576, sec. 28.

See Asylum.

INSOLVENT ESTATES, action against, not to be prosecuted, 410, sec. 8.

INSOLVENT ESTATES. (*Continued.*)

Action of review may be prosecuted, 410, sec. 9.

Administration on estate of deceased resident of another state, how to proceed, 414, sec. 26.

Appeals from commissioners, 415, sec. 1; 417, sec. 18.

Claims, notice to be given of time and place of meeting for allowance of, 412, sec. 2.

time for bringing in, 412, sec. 3.

not payable, to be allowed, 412, sec. 7.

interest on, how allowed, 412, sec. 8.

mutual, to be set off, 413, sec. 9.

of administrator, how allowed, 413, sec. 18, 17.

preferred, what are, 414, sec. 18, 19.

may be submitted to referees, 416, sec. 12.

depending on contingency, not barred, 416, sec. 14.

when barred, 417, sec. 18.

allowed in another state, proceedings, 414, sec. 27.

Collateral security, value of, to be estimated, 418, sec. 10.

Commissioners, one or more to be appointed, 412, sec. 1.

to give notice of time and place of hearing, 412, sec. 2, 3, 4.

to be sworn, 412, sec. 5.

to swear witnesses and examine creditor, 412, sec. 6.

what demands to allow, 412, sec. 7.

to allow interest, 412, sec. 8.

to allow off-sets, 413, sec. 9.

to estimate collateral security, 413, sec. 10.

further time may be given to, 413, sec. 12.

incapacitated, judge to substitute, 413, sec. 12.

to make report, 413, sec. 14.

errors may be corrected by, 413, sec. 15.

not to allow claims of administrator, 413, sec. 16.

to allow preferred claims, 414, sec. 19.

compensation of, 414, sec. 24.

appeal from, 415, sec. 1; 417, sec. 18.

Costs, how allowed, 413, sec. 8.

Creditor holding security, proceedings, 413, sec. 10.

may be examined on oath, 412, sec. 6.

may contest claim of administrator, 413, sec. 17.

may appeal, proceedings, 415, sec. 1; 417, sec. 16.

Decrees of insolvency, when made, 412, sec. 1.

Dividend, how made, 414, sec. 20, 22.

Insane persons, estates of, may be settled as insolvent, 388, sec. 30.

Settlement of, where no property, 414, sec. 25.

Spendthrifts, estates of, may be settled as insolvent, 388, sec. 30.

Sureties, not liable for sum decreed, unless, 416, sec. 15.

INSPECTION of beef and pork, 226, sec. 1; 231, sec. 29.

of butter and lard, 231, sec. 1; 233, sec. 16.

of hops, 233, sec. 1; 235, sec. 14.

of fish, 233, sec. 1; 240, sec. 25.

of pot and pearl ashes, 240, sec. 1; 242, sec. 14.

of lumber, timber, &c., 243, sec. 1; 246, sec. 14.

of flour, 223, sec. 1; 225, sec. 9.

INSPECTORS, term of office of, 222, sec. 1, 2.

how appointed, 222, sec. 2.

to be sworn and give bonds, 223, sec. 3.

to appoint deputies, 223, sec. 4.

to administer oaths, 223, sec. 5.

vacancy in office of, deputy to act, 223, sec. 6.

include deputies, 223, sec. 7.

INSURANCE COMMISSIONERS, appointment and term of office of, 372, sec. 7.

may be removed from office, 372, sec. 8.

to examine insurance companies, 372, sec. 9.

may examine officers under oath, 373, sec. 11.

INSURANCE COMMISSIONERS. (Continued.)

compensation of, 373, sec. 10.
 companies, voluntary, for mutual insurance against fire, 365, sec. 1.
 may limit business to towns, 371, sec. 1.
 members of, not liable to assessment beyond amount of premium notes, 371, sec. 2.
 may insure against damage by lightning, 371, sec. 3.
 in other states, doing business in this State, liabilities, 371, sec. 4; 373, sec. 5.
 agents of, duties and liabilities, 372, sec. 6.
 injunctions against, 373, sec. 12, 13.
 actions against, for losses by fire, 458, sec. 2.
 members of, may be witnesses, 456, sec. 12.
 life, 374, chap. 155.

INTEREST. rate of, 490, sec. 2.

at what rate, usury, 490, sec. 2.
 at higher than legal rate, deduction how made, 491, sec. 3.
 when not usury, 491, sec. 4.
 on execution to be collected, 496, sec. 6.
 on prison bonds allowed, 507, sec. 9.
 on redemption of land sold for taxes, 123, sec. 11; 129, sec. 15.

INTESTATE ESTATES. See Administration.

INVENTORY of estates of persons deceased, blanks for, to be furnished appraisers, 386, sec. 5.
 how made, 386, sec. 5; 406, sec. 2, 3.
 not to include, what, 403, sec. 3.
 to be filed, 403, sec. 1.
 of polls and estate, to be returned to secretary of state, 122, sec. 1, 4.
 to contain footings of polls and property, 122, sec. 2.
 blanks for, to be furnished, 123, sec. 6.
 abstracts of, to be furnished legislature, 123, sec. 6.
 penalty for not returning, 123, sec. 4.
 secretary of state to give information of neglect to return, 123, sec. 5.
 limitation of prosecution for neglect to return, 123, sec. 5.

INVOICE of polls and property to be taken in April, 118, sec. 1.

"**ISSUE**" includes whom, 45, sec. 16.

JAIL to be kept in each county, 577, sec. 1.
 court of common pleas to have the care of, 577, sec. 2.
 inquire into state of, 577, sec. 2.
 take all necessary precautions against escape or sickness of prisoners, 577, sec. 2.
 sheriff to be keeper of, 578, sec. 3.
 jailers to be appointed over, 578, sec. 4.
 escape from, sheriff liable for, 578, sec. 8.
 United States prisoners may be committed to, when, 578, sec. 10.
 shall be used as a house of correction, when, 578, sec. 11.
 prisoners in, unable to pay fine and costs, how discharged, 579, sec. 12.
 removed to another jail, when, 579, sec. 13.
 expense of such removal, how paid, 579, sec. 14.
 of Stafford county shall be deemed the jail of Belknap and Carroll counties, until, 579, sec. 15.

JAILERS, the sheriff shall appoint one or more,

578, sec. 4.
 in the absence or disability of, sheriff shall have custody of jail, 578, sec. 4.
 shall provide prisoners with necessary sustenance, &c., 578, sec. 5.
 shall be allowed reasonable compensation for support of prisoners, 578, sec. 5.
 defrauding any prisoner of his allowance, penalty, 578, sec. 6.
 not allowing reasonable sustenance, &c., penalty, 578, sec. 6.
 to return to court a certified list of prisoners, 578, sec. 7.

JAILERS. (Continued.)

to receive prisoners taken for taxes, 125, sec. 9.
 fees of, 591, sec. 16.
JOINT demands, estate of party deceased liable on, 410, sec. 14.
 administrator or guardian, suits between, 411, sec. 15.
 resolutions, style of, 47, sec. 4.
JOINT TENANTS, who are, 257, sec. 2.
 actions between, 459, sec. 6, 7.
JOURNALS, certified copy of, to be lodged with secretary of state, 43, sec. 6.
 copy of, to be prepared for the press, 43, sec. 6.
 to whom distributed, 43, sec. 7; 49, sec. 8.
 blanks, laws and packages, how distributed, 65, sec. 8.

JUDGE OF PROBATE. See Court of probate.

Partition of real estate.
 to appoint guardian upon whom notice shall be served in certain cases upon petition for highways, 135, sec. 4.
 to order property sold for benefit of wife in case of desertion by husband, 380, sec. 2.
 to appoint guardian in certain cases, 384, sec. 1, 4; 385, sec. 10, 18.
JUDGES shall deposit in the office of the secretary of state a certificate of age, 71, sec. 1.
 shall not hold office after seventy years of age, 71, sec. 2.
 of superior court, salary of, 585, sec. 6.
 of court of common pleas, salary of, 585, sec. 8.
 of circuit judge, salary of, 585, sec. 7.
 of probate, salary of, 585, sec. 12.

JUDGMENT to be rendered in dollars and cents, 490, sec. 1.

on nonsuit, 479, sec. 2.
 on default, 479, sec. 3.
 on complaint for neglect to enter action, 479, sec. 1.
 before justice, where no personal service, 480, sec. 8.
 conditional, where value of betterments found, 491, sec. 7.
 on mortgages, 492, sec. 11.
 in case of set-off, 493, sec. 11.
 usury, 491, sec. 8.
 in action for recovery of penalty or forfeiture, 491, sec. 8-10.
 before justice, *scire facias* on, may be brought in court of common pleas, 459, sec. 3.
 action on, may be maintained, *levy failing*, 459, sec. 4.
 limited, 461, sec. 5.
 of superior court may be special, 495, sec. 13.

JUDICIAL DISTRICTS in Grafton county, 75, 76, sec. 12-14.

JUGGLERS, punishment of, 268, sec. 2.

JURISDICTION. See Courts, Police courts and Justices of the peace.

JUROS, list of, to be made annually by selectmen, 446, sec. 1.
 by selectmen in city wards, 448, sec. 24.
 number of names list to contain, 448, sec. 2.
 who are exempt from serving, 447, sec. 3.
 box containing names to be kept by town clerk, 447, sec. 4.
 may be revised if more names wanted, 447, sec. 5.
 number directed by the court, 447, sec. 6.
 venire issued by clerk to town clerks, 447, sec. 7.
 to clerks of city wards, 449, sec. 25.
 service of, by clerk and sheriff, 447, sec. 8.
 drawing of, how conducted, 447, sec. 10.
 notice of, to be given, 447, sec. 9.
 drawn, to be notified, 448, sec. 14.
 persons drawn as, if disqualified, proceeding, 448, sec. 11.
 not to be placed in box again for two years, 448, sec. 12.
 to be certified on back of venire, 448, sec. 15.

JURORS. (Continued.)

may be selected while court in session, 448, sec. 16.
 talemens may be returned by sheriff, 448, sec. 21.
 interest in cause disqualifies, 449, sec. 22.
 neglect of, to attend, penalty, 448, sec. 18.
 duty as to, by clerk, sheriff or town clerk, penalty, 448, sec. 17.
 selectmen, penalty, 448, sec. 19.
 fraud of town clerk in drawing, penalty, 448, sec. 20.
 and grand jurors, form of oath of, 449, sec. 23.
 fees of, 581, sec. 20, 21.
 before coroner. See *Coroner*.

JUSTICES OF THE PEACE. Actions in civil

cases, how tried, 442, sec. 1, 2.
 abatement of, if reversed in C. C. Pleas, when tried, 442, sec. 10.
Adjournment of cases by justice, 442, sec. 12.
 another justice on continuance, 442, sec. 18.
Appeal in civil cases, 442, sec. 6.
 when must be claimed, 442, sec. 7.
 party appealing must recognize, 442, sec. 7.
 copies to be furnished by appellant, 442, sec. 8.
 costs on, when recovered, 442, sec. 5, 11.
 judgment affirmed, 442, sec. 9.
 in criminal cases, allowed when, 568, sec. 2.
 recognizance upon, 568, sec. 2.
 in cases of larceny, 561, sec. 27.
Commitment by, when, 564, sec. 3, 6.
 of fugitives from justice, 567, sec. 2, 3.
Confession of debt before, 587, sec. 17.
 of debt before, to be recorded, 588, sec. 18.
Copies to be filed in criminal cases, 564, sec. 4.
Costs in criminal cases, how paid, 566, sec. 21.
Examination may be postponed, 564, sec. 7.
 of fugitives from justice, 567, sec. 2.
Executions on former judgments may be issued after commission expired, 443, sec. 18.
Fees in civil cases, 588, sec. 1.
 in criminal cases, 589, sec. 2.
 in case of references, 587, sec. 14.
 for solemnizing marriages, 876, sec. 7.
Fines to be paid over to town or county, 564, sec. 11.
Jurisdiction in civil cases, 442, sec. 1.
 of pleas in questions of land title, 442, sec. 8.
 trespass, 442, sec. 2.
 may solemnize marriages, 876, sec. 6.
 solemnizing marriage without certificate, penalty, 876, sec. 9.
 duty of, upon arrest of debtor on meane process, 477, sec. 9.
 in trustee suits. See *Trustee process*.
 upon confession of debt, 587, sec. 17; 588, sec. 18.
 in criminal cases, to hear and determine in what cases, 563, sec. 1.
 to allow appeals, how, 568, sec. 2.
 to bind over or commit offenders, when, 564, sec. 3.
 to file copies with clerk of court, 564, sec. 4.
 to recognize witnesses, 564, sec. 5.
 to commit upon refusal to recognize, 564, sec. 6.
 may postpone examination, 564, sec. 7.
 may apprehend on view of breach of peace, 564, sec. 8.
 may bind over to keep the peace, 564, sec. 9.
 proceedings before, to be on complaint sworn to, 564, sec. 10.
 to pay over fines and forfeitures, 564, sec. 11.
 may grant search warrants, when, 565, sec. 12, 13.
 may authorize disinterment, 565, sec. 14.
 may authorize arrest of offender escaping from another county, 565, sec. 15, 16.
 throughout the State, powers of, 566, sec. 17, 18.

JUSTICES OF THE PEACE. (Continued.)

Jurisdiction in criminal cases:
 to declare recognizance forfeited, when, 566, sec. 20.
 costs of, how paid, 568, sec. 21.
 duty of, in relation to fugitives. See *Fugitives*.
 in cases of larceny, 561, sec. 27.
Justice, meaning of word, 44, sec. 10.
 not to be counsel for either party, 448, sec. 14.
Justices throughout the State, powers of, in criminal cases, 565, sec. 17, 18.
Landlord and tenant. See *Landlord and tenant*.
Officers. See *Officers*, *Sheriff*.
Penalty for solemnizing marriage without certificate, 876, sec. 9.
Pleas of land title to be transferred to C. C. Pleas, 442, sec. 4.
Poor debtors. See *Debtors*, *poor*.
Recognizance on appeal in criminal cases, 568, sec. 2.
 duty of justice, if forfeited, 568, sec. 20.
 of witnesses, 564, sec. 5, 7.
 on neglect to give, commitment, 564, sec. 6.
 of fugitives from justice, 567, sec. 3.
Record of official oaths to be kept, 72, sec. 8.
 to be returned to secretary of state, 72, sec. 8.
Records of all proceedings to be kept, 448, sec. 15.
 copies of, valid, 448, sec. 19.
 in case of death to be returned to C. C. Pleas, 442, sec. 16.
 in case of removal from county, 448, sec. 17.
References. See *Reference of Disputes*.
Search warrants may be granted, when, 565, sec. 12, 13.
Sureties to keep the peace, 564, sec. 8, 9.
Warrant on judgment in criminal cases, 568, sec. 1.
 to commit to jail, on refusal to recognize, 564, sec. 6.
 on complaint, 564, sec. 10.
 against fugitive from another county, 565, sec. 15.
 by justice throughout the State, 565, sec. 17.
 against fugitives from justice, 566, sec. 1.
Witnesses may be recognized, 564, sec. 5, 7.
 See *Witnesses*.
Writ. See *Writ*.

KEEPER of the state house and state house yard, 51, sec. 1.

KIDNAPPING, punishment of, 545, sec. 15.

KILLING animals, punishment of, 549, sec. 11.

KIN. See *Parents*, *Descent*.

LANDS, meaning of word, 45, sec. 17.

non-resident, how taxed, 117, sec. 12.

State, commissioners of, how appointed, 58, sec. 1.

to make report of doings, 54, sec. 5.

compensation of, 54, sec. 4.

sale of, 54, sec. 2.

deeds of, how recorded, 54, sec. 3.

expenses of surveying, how paid, 54, sec. 4.

trespass on, penalty, 528, sec. 6.

LANDLORD AND TENANT, action against

tenant, how brought, 534, sec. 8.

Action, form of writ in, 534, sec. 8.

writ in, what to contain, 534, sec. 8.

service of, 534, sec. 9.

sustained, judgment for possession rendered, 534, sec. 10.

writ of possession to issue, 534, sec. 11.

falling, defendant entitled to costs, 534, sec. 12.

to be entered in court of common pleas when title questioned, 535, sec. 16.

may be pursued at common law, 535, sec. 23.

Appeal allowed, 535, sec. 17.

LANDLORD AND TENANT. (Continued.)

- Appellant* not entering appeal, effect, 536, sec. 21.
 to produce copies, 536, sec. 20.
 not producing copies, effect, 536, sec. 21.
 to recognize, 536, sec. 18, 19.
 may offer any evidence in court of common pleas, 536, sec. 20.
Common law remedy may be pursued, 536, sec. 20.
General issue, title not to be questioned under, 534, sec. 13.
Judgment against defendant on refusal to recognize, 536, sec. 15.
 party aggrieved by, may appeal, 536, sec. 17.
 to be affirmed, on neglect to enter appeal, 536, sec. 21.
Lease at will, how terminated, 533, sec. 1; 534, sec. 6.
 what to be deemed, 534, sec. 5.
 rent on, how payable, 534, sec. 5.
Notices to be given tenant or occupant, 533, sec. 1.
 what deemed sufficient, 534, sec. 2, 3.
 upon violation of written lease, 534, sec. 3.
Possession, how recovered, 534, sec. 7.
 writ of, form, 534, sec. 11.
Tenancy at sufferance, how terminated, 533, sec. 1.
Tenancy at will, how terminated, 533, sec. 1.
 what to be deemed, 534, sec. 5.
Title not to be questioned under general issue, 534, sec. 13.
 questioned, defendant to recognize, 534, sec. 14.
Writ of summons may be issued, 534, sec. 8.
 what to set forth, 534, sec. 8.
 service of, 534, sec. 9.
 of possession may be issued, 534, sec. 11.
 form of, 534, sec. 11.
LARCENY in buildings, 549, sec. 10.
 from the person, 549, sec. 12.
 of cattle and other animals, 549, sec. 13.
 of money, goods and chattels, 549, sec. 14; 551, sec. 26.
 of deeds, records, &c., 549, sec. 16.
 of property of less value than twenty dollars, punishment, 549, sec. 15.
 of property at fire, penalty, 263, sec. 7.
 of floating timber, punishment, 307, sec. 9.
 person convicted of, owner to have judgment for value of property, 550, sec. 13.
 of goods bailed for specific purpose, 551, sec. 26.
 receiver of goods obtained by, to be punished, 550, sec. 17.
LARD. See *Butter and Lard*.
LASCIVIOUSNESS, how punished, 559, sec. 3.
LAWS, exchange of, 49, sec. 8.
 blanks, journals (and packages, how distributed, 65, sec. 3.
 publication and distribution of, 47, sec. 2, 43, sec. 5.
 of, in newspapers, compensation, 43, sec. 4.
LEASE for more than seven years, to be attested, acknowledged and recorded, 289, sec. 4.
 may be recorded in another county, 289, sec. 5.
 not acknowledged, how proved, lessor insane, dead or absent, 289, sec. 8.
 witnesses insane, dead or absent, 289, sec. 8.
 if lessor refuses to acknowledge, 289, sec. 10.
 See *Landlord and Tenant*.
LEATHER, stamped by maker, effect, 246, sec. 3.
 penalty for stamping fraudulently, 246, sec. 4.
LEGACY not defeated by disclaimer, 400, sec. 3.
LEGATEE, deceased, heirs of, to take estate devised, 400, sec. 11.
 to make contribution, when, 400, sec. 10; 423, sec. 14.
 to give receipt on payment of legacy, 423, sec. 15.

LEGATEE. (Continued.)

- to give bond if required, 423, sec. 3.
 residuary, bonds by, 405, sec. 13.
LEGISLATURE, pay of members of, 537, sec. 19-21.
 actual days of attendance only allowed, 537, sec. 25.
 statement of number of days to be furnished clerk, 537, sec. 26.
 notice of petitions to, 43, sec. 1, 2.
 how served, 43, sec. 2.
 joint resolutions, how passed by, 47, sec. 4.
 unfinished business of, how disposed of, 47, sec. 5.
 committees of, may administer oath, 47, sec. 6.
 clerks of, to deposit papers, 47, sec. 5.
LEGITIMATE CHILDREN, settlement of. See *Widowers*.
LEVY of executions. See *Executions*.
 failing, action may be brought on judgment, 459, sec. 4.
LEWDNESS, how punished, 559, sec. 2.
LIBEL for divorce. See *Divorce*.
 for forfeiture of goods to be filed, when and where, 540, sec. 2.
LIBRARY, state, secretary of state, ex officio, librarian of, 52, sec. 1.
 to appoint deputy, 52, sec. 1.
 state, librarian and deputy librarian of, duties, 52, sec. 2.
 compensation of, 52, sec. 1.
 committee on, and duties, 52, sec. 5, 3.
 books for, how purchased, 52, sec. 6, 7.
 appropriation for, 52, sec. 5.
 may be taken from, how, 52, sec. 2.
 when returned, 52, sec. 4.
LICENSE of taverners and retailers, 269, chap. 123.
 of hawkers and pedlars, 231, chap. 120.
 for shows and exhibitions, 258, chap. 121.
 for firing guns in streets, 262, sec. 5.
 for pest-houses, 276, sec. 4.
 to builders to occupy streets, 263, sec. 8.
 to be recorded, 263, sec. 9.
 for the erection of gates on highways, 132, sec. 8.
 of administrator to sell real estate, 417-418, sec. 1-14.
 personal estate, 406, sec. 5.
LICENSED HOUSES, to sell wine and spirituous liquors, 270, sec. 5.
 licenses must be recorded, 270, sec. 7.
 fees of clerks for recording licenses, 270, sec. 8.
 penalty for selling without license, 270, sec. 6.
 license may be revoked by selectmen, 270, sec. 4.
 limitation of license, 270, sec. 10.
 complaint for violation, and proceedings, 270, sec. 9.
 taverners of good moral character may be licensed, 269, sec. 1.
 shall at all times be furnished with suitable accommodations, 269, sec. 2.
 penalty for not being furnished, 269, sec. 2.
 tipping, gaming and disorderly conduct forbidden, 270, sec. 3.
LIEN of persons taxed for property of others, 113, sec. 13.
 of collector on property taxed, 125, sec. 12.
 of persons performing labor on vessels, 296, sec. 1.
 how secured, 296, sec. 2.
 of mechanics upon buildings, and continuance of lien, 296, sec. 3.
 when to attach, 296, sec. 4, 5.
 may be secured by attachment, 296, sec. 6.
 not impaired by law relating to exemption of homestead, 473, sec. 6.
 by prior mortgage to have precedence, 297, sec. 7.
 when claimed by two or more, priority, how determined, 297, sec. 8.

LIEN. (*Continued.*)

- to attach, if contract not completed without default of mechanic, 297, sec. 9.
- to be discharged by payment of amount due, 297, sec. 10.
- laws relating to, not to be in force unless adopted by town, 297, sec. 11.
- of guardian upon estate of ward, 389, sec. 88.
- LIFE** or person, offences against, how punished, 543, chap. 237.
- LIFE INSURANCE.** 874, chap. 155.
- LIMITATION** of indictment for treason, 543, sec. 3.
- of penalty for not returning inventory to secretary of state, 123, sec. 4.
- of actions against stockholders of banks, 880, sec. 59.
- by or against administrator, 410, sec. 7.
- to recover damages for lands taken for highways, 142, 143, sec. 3, 4.
- upon judgments, levy failing, 469, sec. 4.
- for recovery of real estate, 460, sec. 1.
- personal, 461, sec. 4.
- for words, assault, wounding and imprisonment, 461, sec. 3.
- upon judgments, recognizances and sealed instruments, 461, sec. 5.
- of review, 494, sec. 5.
- upon notes secured by mortgage, 461, sec. 6.
- on bond of administrator of insolvent estate, 416, sec. 15.
- of writs of error, 461, sec. 7.
- of prosecution on penal statute, 539, sec. 9.
- minors, married women, insane and absent persons, how affected by, 460, 461, sec. 2, 8, 9.
- where judgment rendered against plaintiff, if not a bar, 461, sec. 10.
- general provisions relating to, not to affect special limitations, 461, sec. 11.
- how affected by revised statutes, 594, sec. 12.
- LINES** of towns on Connecticut river, 110, sec. 1.
- to be perambulated, 110, sec. 2.
- perambulation of, to be returned, 110, sec. 3.
- neglect of, penalty, 110, sec. 5.
- disputed, to be determined by court of common pleas, 110, sec. 6.
- of common fields, 302, sec. 28.
- LIQUORS**, spirituous, sale of, allowed for certain purposes, on license, 270, sec. 5.
- at religious meetings, disallowed, 272, sec. 9.
- to paupers prohibited, 263, sec. 12.
- LIST** of voters. See *Voters, Elections.*
- of stockholders in corporation to be filed with town clerk, 315, sec. 8.
- of taxes to be given collector, 127, sec. 1, 2.
- of non-resident taxes to be filed by sheriff with clerk of court, 181, sec. 7.
- of lands redeemed, to be filed with town clerk, 123, sec. 16.
- LITERARY FUND**, how collected and distributed, 193, chap. 85.
- LOGS** for ships, how measured, 243, sec. 5.
- floating, stopping or cutting out marks on, penalty, 307, sec. 8.
- carrying away, larceny, 307, sec. 9.
- penalty for altering mark on, 525, sec. 2.
- See *Floating timber, Lumber.*
- LOST GOODS.** See *Swags.*
- LOTTERIES** forbidden and punished, 551, sec. 1.
- tickets in, sale of, prohibited and punished, 551, sec. 2.
- LUMBER.** *Bards*, survey and measurement of, 243, sec. 2.
- certificate of quantity and sorts of, to be given, 243, sec. 2.
- Clapboards*, survey and measurement of, 243, sec. 2.
- how inspected and sorted, 244, sec. 3.
- Fees* for inspection, 245, sec. 10.
- Hoops*, cullers of, chosen, 243, sec. 1.
- duties of, 243, sec. 3.
- inspection of, 244, sec. 9.

LUMBER. (*Continued.*)

- Lumber*, surveyors of, how chosen, 106, sec. 7; 243, sec. 1.
- surveying and marking of, 243, sec. 2.
- how taxed, 116, sec. 8.
- Penalty* for fraud in surveying or culling, 246, sec. 13.
- for exporting without inspection, 245, sec. 11; 246, sec. 12.
- for neglect of surveyor, 246, sec. 14.
- for sawing or cutting into lumber, 525, sec. 2.
- Plank*, standard thickness of, 243, sec. 4.
- Shingles*, how inspected and sorted, 243, sec. 6.
- how branded, 244, sec. 7.
- Ship timber*, how measured, 243, sec. 5.
- Staves*, cullers of, chosen, 106, sec. 7; 243, sec. 1.
- how inspected, 244, sec. 9.
- Surveyors* chosen, 106, sec. 7; 243, sec. 1.
- duties of, 243, sec. 2.
- LUNATICS** included in word "*insane*," 45, sec. 15.
- MACHINERY**, how taxed, 112, sec. 2.
- MAIMING PERSON**, how punished, 544, sec. 7.
- cattle, how punished, 560, sec. 12.
- MAINTENANCE** of paupers, 156—162.
- of bastards, 163—164, chap. 72.
- MAJORITY**, how determined, 88, sec. 13.
- of public officers to act, 46, sec. 18.
- of selectmen, 103, sec. 8.
- MALICIOUS MISCHIEF**, injury to railroads, 548, sec. 3.
- to telegraph wires, 548, sec. 4.
- burning property, 548, sec. 5.
- trespass upon gardens and fields, 552, sec. 28.
- prostrating fences, 552, sec. 30.
- maiming cattle, 549, sec. 11.
- injuring tomb stones and monuments, 560, sec. 11.
- MANDAMUS**, writ of, how issued, 494, sec. 6.
- MANSLAUGHTER**, punishment of, 544, sec. 4.
- MANUFACTURING CORPORATIONS.** See *Corporations.*
- Agent*, appointment of, 333, sec. 5.
- Assessments* on shares, how ordered, 334, sec. 11.
- amount of, paid, to be reported to governor, 336, sec. 20.
- for taxes, 113, sec. 2.
- Bill* in equity against, by stockholders, 337, sec. 29.
- Business* of, how to be managed, 333, sec. 2.
- By-laws*, how made, 333, sec. 6.
- Capital stock*, how fixed and divided into shares, 334, sec. 7.
- when all paid in, certificate to be filed with town clerk, 335, sec. 15.
- may be increased, not exceeding provisions of charter, 334, sec. 9.
- increased, certificate to be filed with town clerk, 335, sec. 16.
- may be reduced, 335, sec. 18.
- reduced, certificate to be filed with town clerk, 335, sec. 15.
- note of stockholder, not payment of, 335, sec. 22.
- Clerk*, choice and duty of, 333, sec. 4.
- to be sworn, 333, sec. 4.
- to be resident of this State, 313, sec. 23.
- Contracts* for labor limited to ten hour system, 333, sec. 34.
- with minors for more than ten hours, forbidden, 333, sec. 35.
- Debts*, stockholders liable for, individually, 334, sec. 14; 335, sec. 17, 19.
- not to exceed capital stock and assets, 335, sec. 23.
- amount of, to be reported to governor, 335, sec. 20.
- Directors*, number of, and how chosen, 333, sec. 3.
- not liable for debts contracted in their absence, if notice given, 333, sec. 24.
- liable if dividend made when corporation is insolvent, 335, sec. 21.

MANUFACTURING CORPORATIONS. (Continued.)

Dividends not to be made if company is insolvent, 335, sec. 21.

Executions may be levied on property of stockholders, 337, sec. 27.

Indebtedness of corporation limited, 336, sec. 23.

Insolvent corporations, not to pay dividends, 336, sec. 21.

Loans not to be made to stockholder, 336, sec. 22.

Minors not to be excluded from school privileges by employment in, 192, sec. 1, 2.

not to labor more than ten hours a day, 338, sec. 25.

Notice of condition to be given to governor, 335, sec. 20.

Officers, how chosen and appointed, 338, sec. 4, 5.

punished for neglect of duty, 335, sec. 17, 20.

to have no remedy against stockholder for paying debts of corporation, 337, sec. 30.

Penalty for employing minors without schooling, 193, sec. 3.

for employing minors more than ten hours per day, 338, sec. 25.

for making loans to stockholders, 336, sec. 22.

for declaring dividends when company insolvent, 335, sec. 21.

for making false certificates, 336, sec. 25.

for not giving notice to governor of indebtedness, 335, sec. 20.

Proceedings of, may be examined by legislature, 337, sec. 23.

Process against, how served, 337, sec. 31, 32.

Property of, where taxed, 116, sec. 5.

Shares, certificate of, to be given by treasurer, 334, sec. 8.

transfer of, how made, 334, sec. 10.

how assessed, 334, sec. 11.

may be sold at auction for payment of assessments, 334, sec. 12, 13.

Stockholders liable for debts of corporation, 334, sec. 14.

how and when so liable, 335, sec. 17, 19, 20.

may have contribution of co-stockholders, 336, sec. 23.

bill in equity by creditors against, 337, sec. 28.

may have bill in equity against corporation, 337, sec. 29.

not liable to officers who pay debts of corporation, 337, sec. 30.

See *Corporations, General provisions.*

Taxes, assessment of, 113, sec. 2.

where property to be taxed, 116, sec. 5.

notice of, to be given, 124, sec. 3.

property holden for, 125, sec. 13.

Treasurer, choice of, and bond, 333, sec. 4.

when not resident, process, how served, 337, sec. 31.

MARRIAGE, between what persons forbidden,

375, sec. 1, 2.

incestuous and void, when, 375, sec. 3.

issue of, illegitimate, when, 375, sec. 3.

intention of, to be published, and where, 375, sec. 4.

publication of, town clerk to give certificate of, 376, sec. 5.

certificate of, to be produced, 376, sec. 5.

fee of clerk for, 376, sec. 5.

by whom solemnized, 376, sec. 6.

persons joined in, to pay minister or justice one dollar, 376, sec. 7.

solemnized by Friends or Quakers, how, 376, sec. 8.

by minister or justice, illegally, penalty, 376, sec. 9.

by persons not authorized, penalty, 376, sec. 10.

to be recorded by town clerk, 284, sec. 1.

copy of record, evidence of, 376, sec. 11.

not void, though irregular, 376, sec. 12.

MARRIAGE. (Continued.)

age of consent to, what to be deemed, 376, sec. 13.

prohibited by law, or where former husband or wife living, void, 377, sec. 1.

validity of, doubtful, libel for divorce may be filed, 377, sec. 2.

evidence of, upon hearing for divorce, 378, sec. 9.

not to be contested after decease, in what cases, 333, sec. 19.

of female guardian, effect, 384, sec. 6.

defendant, court may order notice to husband, 431, sec. 16.

plaintiff not to abate suit, 431, sec. 17.

agreement made in consideration of, to be in writing, 459, sec. 9.

See *Divorce, Husband and wife, Homestead.*

MASCULINE, word includes *feminine*, 44, sec. 2.

MASTERS AND APPRENTICES, apprentices, how protected in their rights, 390, sec. 7.

apprentices, enticing away, how punished, 391, sec. 12.

minors under age of fourteen, may be bound as, 390, sec. 1.

fugitive, how apprehended, 391, sec. 11.

assault by apprentice, how punished, 391, sec. 10.

indentures, by whom kept, 390, sec. 4.

duly executed, to be effectual against all parties, 390, sec. 5.

voidable after death of master, 390, sec. 6.

may be discharged for misconduct of either party, 390, sec. 8; 391, sec. 9.

master to furnish arms and equipments, 204, sec. 9.

to recover penalty for illegally joining in marriage, 376, sec. 9.

liability of, for neglect to teach apprentices, 391, sec. 13.

minors under age of fourteen may be bound as apprentices, 390, sec. 1.

above the age of fourteen, how bound, 390, sec. 2.

not to be bound except by indentures, 390, sec. 3.

MASTERS OF VESSELS, duty of, as to exports of salted beef and pork, 229, sec. 19, 20.

duty of, as to exports of butter and lard, 223, sec. 7, 8.

hops, 235, sec. 10, 11.

pickled fish, smoked alewives and herrings, 238, sec. 16; 239, sec. 17.

MEASURERS of grain in Portsmouth, 247, chap. 111.

of wood, chosen, 106, sec. 7; 247, sec. 6.

duties of, 247, sec. 6.

fraud or neglect of, penalty, 247, sec. 7.

MEASURES and weights, 249—251, chap. 112.

sealers of, chosen, 106, sec. 7.

MECHANICS, lien of, 296, 297, sec. 1—11.

upon what property, and how secured, 296, sec. 1—4.

MEETING for choice of governor, councillors and senators, when holden, 90, sec. 1.

annual, when applied to towns, how construed, 44, sec. 8.

MEETING HOUSES, one pew in, exempt from attachment, 469, sec. 2.

pews in, how attached, 470, sec. 14.

how levied on, and sold on execution, 469, sec. 12.

towns may repair, for town purposes, 100, sec. 4.

may be sold by proprietors, and proceeds divided, 370, sec. 16—18.

property in, how held, 368, sec. 2.

MEMBERS of legislature, pay of, 587, sec. 19, 20.

MERCHANDISE, contract for sale of, when to be in writing, 459, sec. 10.

See *Goods.*

MERRIMACK COUNTY, boundaries of, 76, sec. 8.

MESNE PROCESS. See *Writs.*

MILITIA, of the, 196—221.

- Active duty only required, when, 208, sec. 1.*
- Adjutant, appointment of, 213, sec. 5.*
 - duty of, in relation to returns, 199, sec. 4.
 - neglecting to make return, penalty, 200, sec. 7.
 - compensation of, and how paid, 200, sec. 8.
 - to keep orderly book, 201, sec. 1.
 - to keep roster, 201, sec. 8.
- Adjutant general, rank of, 214, sec. 1.*
 - to give bond, 215, sec. 8.
 - general duties of, 214, 215, sec. 1—7.
 - to pay fees of adjutant for making return, 200, sec. 8.
 - to pay for transmission of orders, returns and public property, 200, sec. 9.
 - duty of, in relation to returns, 200, sec. 10, 11.
 - to recover and apply penalties for injuring gun-house and ordnance, 206, sec. 11.
 - to deliver arms to towns and cities, 206, sec. 1.
 - to direct when arms to be received and returned, 207, sec. 2.
 - to furnish standards, 215, sec. 2.
 - to distribute laws and military books, 215, sec. 3.
 - to sue for fines imposed by courts martial, 218, sec. 10.
 - to sue for military property, penalties and damages, 215, sec. 4, 5, 6.
 - to account for moneys received, 215, sec. 7.
- Age, giving false answers in relation to, penalty, 198, sec. 6.*
- Aids of commander-in-chief, 212, sec. 1.*
 - of major general, 212, sec. 2.
 - of brigadier general, 212, sec. 8.
- Alarm, signals of, appointed, 208, sec. 9.*
 - neglect of, penalty, 209, sec. 9.
- Arms, what required, 203, 204, sec. 2—7.*
 - officers and privates to keep furnished with, 204, sec. 8.
 - exempt from attachment, 469, sec. 2.
 - state, to be furnished towns and cities, 206, sec. 1.
 - to be held in trust by selectmen or city council, 206, sec. 1.
 - where to be received and returned, 207, sec. 2.
 - towns and cities responsible for, 206, sec. 1.
 - bonds for safe keeping and return of, required, 206, sec. 1.
 - expense of repairs of, to be certified to adjutant general, 216, sec. 6.
 - damage for injury to, recovered by adjutant general, 215, sec. 5.
- Arrest of officers for offences, 217, sec. 1.*
 - to be reported without delay to adjutant general, 217, sec. 2.
 - officers may be discharged from, when, 217, sec. 3.
 - officers and soldiers on duty not liable to, on civil process, 477, sec. 8.
- Arsenals, commissary general to have charge of, 216, sec. 2, 3.*
 - arms and other military property to be kept at, 216, sec. 3, 4, 5.
- Artillery, how formed, 202, sec. 3.*
 - number of, to regiment, 202, sec. 5.
 - uniform of, how determined, 203, sec. 1.
 - arms and equipments of, 204, sec. 7.
 - ordnance, harness and apparatus for, 206, sec. 1.
 - captain to have control of, 206, sec. 2.
 - allowance for repairs of, 205, sec. 3.
 - may be incorporated, 221, sec. 1.
- Attachment, uniform, arms and equipments exempt from, 469, sec. 2.*
- Blanks to be furnished by adjutant general, 214, sec. 1.*
 - by adjutant, 199, sec. 4.
- Bond for safe keeping and return of arms, 206, sec. 1.*
 - of adjutant general, 215, sec. 8.

MILITIA. (Continued.)

- Bond of commissary general, 216, sec. 1.*
 - of deputy commissary general, 216, sec. 8.
- Books to be furnished by adjutant general, 214, 215, sec. 1, 3.*
 - may be recovered by adjutant general, 215, sec. 4.
 - penalties and damages for injuries to, may be recovered by adjutant general, 215, sec. 5.
- Brigades, how constituted, 211, 212, sec. 48—50.*
 - how commanded, 212, sec. 8.
 - officers of, 212, sec. 3, 4.
- Brigade major, appointment of, 212, sec. 8.*
 - to keep orderly book, 201, sec. 1.
 - duty of, in relation to returns, 200, sec. 5.
 - to be brigade inspector, 212, sec. 8.
- Brigadier general to command brigade, 212, sec. 3.*
 - to appoint officers of brigade, 212, sec. 8.
- By-laws may be made by volunteer companies, 221, sec. 3.*
- Camp equipage to be furnished by adjutant general, 215, sec. 2.*
 - distribution of, 213, sec. 6.
- Captain to enrol persons liable to do military duty, 197, sec. 3.*
 - compensation of, for making enrolment, 196, sec. 10.
 - to make returns, 199, sec. 1, 2.
 - to make requisition for necessary articles, 199, sec. 1, 2.
 - neglecting to make return, penalty, 200, sec. 7.
 - arms of, 203, sec. 3.
 - responsible for arms, &c., furnished by selectmen, 204, sec. 11.
 - of artillery to have control of ordnance, 206, sec. 2.
 - to erect gun-house, 206, sec. 4.
 - to give bond for safe keeping and return of arms, 206, sec. 1.
 - of companies ordered into actual service, to certify list to selectmen or city council, 209, sec. 10.
- Captain-general. See under this head Commander-in-chief.*
- Cavalry, how formed, 202, sec. 3.*
 - number of, to regiment, 203, sec. 11.
 - uniform of, how determined, 203, sec. 1.
 - arms and equipments of, 204, sec. 5.
 - may be incorporated, 221, sec. 1.
- Certificate of surgeon to be recorded, 201, sec. 4.*
- Chaplain, appointment of, 213, sec. 5.*
- City Council to make enrolment, &c., if company without officers, 198, sec. 8.*
 - neglecting to make enrolment, penalty, 198, sec. 9.
 - to hold in trust arms received from State, 206, sec. 1.
 - to pay persons detached for actual service, 209, sec. 11.
- Clerk to assist in enrolling and revising roll 198, sec. 5.*
 - compensation of, for making enrolment, 198, sec. 10.
 - to assist in making and to record returns, 199, sec. 3.
 - to sign returns, 199, sec. 1, 2.
 - to keep orderly book, 201, sec. 1.
 - to keep roster, 201, sec. 8.
 - to record permits and surgeon's certificates, 201, sec. 4.
- Colonel, appointment of, 213, sec. 5.*
 - to appoint regimental staff, 213, sec. 5.
- Colors, adjutant general to furnish, 215, sec. 2.*
 - distribution of, 213, sec. 6.
- Commander-in-chief to determine uniform of infantry, 203, sec. 1.*
 - to sell and exchange military property, 207, sec. 3.
 - to adjust damages on account of property destroyed by fire, 207, sec. 4.
 - to order detachments, when, 208, sec. 2.
 - to appoint signals of alarm, 209, sec. 9.

MILITIA. (Continued.)

- Commander-in-chief* to appoint aide, 212, sec. 1.
 may remit penalties, when, 216, sec. 6.
 may discharge from arrest, when, 21, sec. 8.
 may order court martial, 217, sec. 8.
 of inquiry, 220, sec. 1.
- Commissary general* to give bond, 216, sec. 1.
 duty of, in relation to military property, 216, sec. 1—6.
 to appoint deputy, 216, sec. 8.
- Companies* without officers, selectmen or city council to make enrolment, &c., 196, sec. 8.
 limits of, prescribed by field officers, 202, sec. 1.
 allowed to conform to number of volunteer companies, 202, sec. 1.
 reduced below a certain number, how disposed of, 202, sec. 2.
 of cavalry, artillery, &c., how formed, 202, sec. 3.
 volunteer, how apportioned among towns, 202, sec. 4.
 number of rank and file in, 202, sec. 5.
 enlistment in, when valid, 202, sec. 6.
 length of service in, 202, sec. 7.
 how discharged from, 203, sec. 8.
 number of, to regiment, 203, sec. 11.
 to consist of what number, each, 203, sec. 9.
 now organized, how affected by certain provisions, 203, sec. 10.
 officers of, and how appointed, 213, sec. 7.
 incorporation of, 221, sec. 1.
 incorporated, powers and liabilities of, 221, sec. 2.
 may make by-laws and regulations, 221, sec. 3.
 legislature may abolish or modify, 221, sec. 4.
- Corporals*, appointment of, 213, sec. 8.
- Courts-martial*, officers tried by, when, 217, sec. 1.
 arrest of, to be reported, 217, sec. 2.
 may be discharged from arrest, when, 217, sec. 3.
 how constituted, 217, sec. 4.
 officers of, how appointed, 217, sec. 4.
 oath of members of, 217, 218, sec. 5, 6.
 members of, may be challenged, 218, sec. 7.
 trials by, to be in day time, 218, sec. 8.
 opinion of members of, how taken, 218, sec. 9.
 two thirds of members of, necessary to convict, 218, sec. 9.
 sentence of, and its effect, 218, sec. 10.
 to preserve order, 218, sec. 11.
 officers to have speedy trial by, 218, sec. 12.
 copy of charges, &c., 218, sec. 12.
 attending, not liable to arrest on civil process, 477, sec. 8.
 to try offences committed within what time, 218, sec. 13.
 to proceed to trial in absence of accused, when, 219, sec. 14.
 oath of witnesses in, 219, sec. 15.
 to compel attendance of witnesses, 219, sec. 16.
 judge advocate to attend, 219, sec. 17.
 general duties of, 219, sec. 18, 19.
 proceedings of, to be laid before commander-in-chief, 219, sec. 18.
 records of, to be deposited with adjutant general, 219, sec. 20.
 accused entitled to copy of, 219, sec. 20.
 roll of, to be transmitted to governor, 220, sec. 22.
 fees for services rendered on, 219, sec. 21.
 order for, to be drawn by governor, 220, sec. 22.
- Courts of inquiry*, for what purpose ordered, 220, sec. 1.
 how constituted, 220, sec. 2.
 oath of members, 220, sec. 3, 4.
 proceedings of, 220, sec. 5, 6.
 to be transmitted to governor, 220, sec. 6.

MILITIA. (Continued.)

- Courts of inquiry*, powers of, 221, sec. 7.
 officers attending, not liable to arrest on civil process, 477, sec. 3.
 fees of, 221, sec. 7.
- Detachments*, by whom ordered, 203, sec. 2.
 how made, 203, sec. 3—5.
 officers of, how detailed, 203, sec. 4, 5.
 subject to rules and articles of war, 203, sec. 7.
 list of, returned to selectmen or city council, 203, sec. 10.
- Details*, how made, 203, sec. 4, 5.
 for courts martial, 217, sec. 4.
- Discharge* in case of enlistment, how granted, 203, sec. 8.
- Divisions*, how constituted, 212, sec. 51—54.
 commanded, 212, sec. 2.
 officers of, 212, sec. 2.
- Drafts*, how made, 203, sec. 4, 5.
- Drum major*, appointment of, 212, sec. 5.
- Enlistment*, when valid, 203, sec. 6.
 for what length of time, 203, sec. 7.
 how discharged from, 203, sec. 8.
- Enrolment*, who are liable to, 197, sec. 1.
 students not liable to, when, 197, sec. 2.
 captain of infantry to make, 197, sec. 2.
 evidence of, 197, sec. 3.
 to be entered on roll book, 198, sec. 5.
 orderly sergeant to assist in, 198, sec. 5.
 giving false information to prevent, penalty, 198, sec. 6, 7.
 how made, if company without officers, 198, sec. 8.
 compensation for making, 198, sec. 10.
- Equipments* of general, field and commissioned staff officers, 203, sec. 2.
 of captains, subalterns and non-commissioned staff officers, 203, sec. 3.
 of non-commissioned officers and privates of infantry, light infantry and grenadiers, 203, sec. 4.
 of officers and privates of cavalry, 204, sec. 5.
 of non-commissioned and privates of rifle-men, 204, sec. 6.
 artillery, 204, sec. 7.
 officers, non-commissioned officers and privates to keep furnished with, 204, sec. 8.
 minors, how furnished with, 204, sec. 9.
 persons deemed unable to provide, when, 204, sec. 10.
 selectmen to provide, when, 204, sec. 11.
 captain responsible for safe return of, 204, sec. 11.
 exemption of, from attachment, 469, sec. 2.
 execution and distress, 204, sec. 12.
- Exempts*, absolute, who are, 196, sec. 1.
 conditional, who are, 196, sec. 2.
 money received from, how applied, 197, sec. 3.
 students, when, 197, sec. 2.
- Expenses* in certain cases paid by adjutant general, 200, sec. 9.
- Fees* of captain and clerk for making enrolment, 198, sec. 10.
 of adjutants for making returns, 200, sec. 8.
 of persons detached for actual service, 203, sec. 11.
 for services on courts martial, 219, sec. 21;
 220, sec. 22.
 of inquiry, 221, sec. 7.
- Field officers* to prescribe limits of companies, 202, sec. 1, 3.
 to disband company, when, 202, sec. 2.
 to organize volunteer companies, 203, sec. 11.
 arms of, 203, sec. 2.
 to approve location and construction of gun house, 205, sec. 6.
 to approve removal of gun house, 205, sec. 6.
- Fife major*, appointment of, 213, sec. 5.
- Fines* to be accounted for, 214, sec. 17.

MILITIA. (Continued.)

Grasscutters, number of, to regiment, 208, sec. 11.
 how formed, 202, sec. 2.
 uniform of, how determined, 208, sec. 1.
 arms and equipments of, 208, sec. 4.
 may be incorporated, 221, sec. 1.
Guardians, minor giving false answers, to pay fine for, 198, sec. 8.
 to furnish arms and equipments to minors, 204, sec. 9.
Gum house to be erected, 205, sec. 4.
 state to pay for, 205, sec. 4.
 claim for erecting, when allowed, 205, sec. 5.
 deed of land for, to be filed with secretary of state, 205, sec. 5.
 to be approved by field officers, 205, sec. 5.
 may be removed, when, 205, sec. 6.
 injury to, penalty, 205, sec. 10.
 penalties and damages for injury to, how recovered, 215, sec. 5.
Incorporation of companies, 221, sec. 1.
Infantry, uniform of, how determined, 208, sec. 1.
 arms and equipments of, 208, sec. 4.
Inspector of division appointed by major general, 212, sec. 2.
 to keep orderly book, 201, sec. 1.
Insurrection, suppression of, 208, sec. 2, 3.
 in case of, any notice sufficient, 209, sec. 8.
Location, in case of, detachments to be made, 208, sec. 2.
 any notice sufficient, 209, sec. 8.
Judge advocate to be appointed to brigade, 218, sec. 4.
 duty of, on courts martial. See under this head, *Courts martial*.
 of inquiry. See under this head, *Courts of inquiry*.
Leave to be distributed, 215, sec. 8.
Lieutenant colonel, appointment of, 218, sec. 5.
Light infantry, how formed, 202, sec. 8.
 number of, to regiment, 208, sec. 11.
 uniform of, how determined, 208, sec. 1.
 arms and equipments of, 208, sec. 4.
 may be incorporated, 221, sec. 1.
Major, appointment of, 218, sec. 5.
Major general to command division, 212, sec. 2.
 to appoint officers of division, 212, sec. 2.
Masters to furnish arms and equipments to minors, 204, sec. 9.
Minors giving false answers, guardian liable for penalty, 198, sec. 6.
 arms and equipments for, how furnished, 204, sec. 9, 11.
Musical instruments, distribution of, 218, sec. 6.
 to be furnished by adjutant general, 215, sec. 2.
 penalties and damages for injury to, how recovered, 215, sec. 5.
Names, giving false answers in relation to, penalty, 198, sec. 6.
Oaths on courts martial, 217, sec. 5; 218, sec. 6; 219, sec. 15.
 of inquiry, 220, sec. 3, 4.
Officers, arms and equipments of, 208, 204, sec. 2-7.
 to be constantly furnished with arms, &c., 204, sec. 8.
 uniform, arms, &c., of, exempt from execution and distress, 204, sec. 12.
 how detailed in cases of public danger, 208, sec. 4, 5.
 detailed, refusing to obey orders, penalty, 208, sec. 6.
 roster of, to be kept, 201, sec. 8.
 number, appointment and rank of, 212, 218, sec. 1-5.
 where to reside, 218, sec. 9.
 removal of, cause for address, 218, sec. 10.
 convicted of crime, to be removed, 218, sec. 11.
 resignation of, 218, sec. 12; 214, sec. 13.
 to fix limits of parade, 214, sec. 14.

MILITIA. (Continued.)

Officers, absence of, vacancy filled, 214, sec. 15.
 relative rank of, how determined, 214, sec. 16.
 to account for public property, 214, sec. 17.
 tried by court martial, when, 217, sec. 1.
 exercising military command when under arrest, to be cashiered, 217, sec. 1.
Orderly books, by whom kept, 201, sec. 1, 2.
 what to be recorded in, 201, sec. 1-4.
 to contain orders altering number of company, 202, sec. 1.
Orderly sergeant. See under this head, *Clerk*.
Ordnance, one piece of, allowed company of artillery, 205, sec. 1.
 company having two pieces of, allowed additional harness, &c., 205, sec. 1.
 captain to have control of, 205, sec. 2.
 allowance to, for repairs of, 205, sec. 8.
 building to be erected for, 205, sec. 4.
 erected for, State to pay expense of, 205, sec. 4.
 claim for, allowed, when, 205, sec. 5.
 not to be removed without consent of captain, 205, sec. 7.
 removing without permission, penalty, 206, sec. 8.
 persons using, liable for damage, 206, sec. 9.
 injuries to, penalty, 206, sec. 10.
 penalties and damages for, how recovered, 215, sec. 5.
Parents to pay fine imposed on minor, 198, sec. 6.
 to furnish arms and equipments, 204, sec. 9.
Paymaster, appointment of, 218, sec. 5.
Penalty for giving false information to prevent enrolment, 198, sec. 6, 7.
 for neglect to enroll, &c., 198, sec. 9.
 for neglect to make returns, 200, sec. 7.
 for removing ordnance without permission, 206, sec. 8.
 for breaking into gun-house, 206, sec. 10.
 for injuring ordnance and other property, 206, sec. 10.
 in three last cases, how recovered, 206, sec. 11.
 for neglecting to obey orders, when detailed or drafted, 208, sec. 6.
 for neglecting signals of alarm, 209, sec. 9.
 to be recovered by adjutant general, 215, sec. 5, 6.
Permits to be recorded, 201, sec. 4.
Postage, when to be paid, 200, sec. 9.
Privates to keep furnished with arms and equipments, 204, sec. 8.
 selectmen to provide with arms, when, 204, sec. 11.
 arms, uniform, &c., of, exempt from execution and distress, 204, sec. 12.
Property, military, to be sold or exchanged, when, 207, sec. 3.
 destroyed by fire, damages to be adjusted, 207, sec. 4.
 distribution of, by quarter-master, 218, sec. 6.
 to be accounted for to adjutant general, 214, sec. 17.
 may be recovered by adjutant general, 215, sec. 4.
 damage to, recovered by adjutant general, 215, sec. 5.
 kept at arsenals, 216, sec. 2-5.
Quarter-master of regiment, appointment of, 218, sec. 5.
 duty of, in relation to returns, 200, sec. 6.
 neglecting to make return, penalty, 200, sec. 7.
 to keep orderly book, 201, sec. 2.
 general duties of, 218, sec. 6.
 of division to be appointed, 212, sec. 2.
 of brigade to be appointed, 212, sec. 3.
Rank of officers, 212, 218, sec. 1-5.
 relative, how determined, 214, sec. 16.
 of adjutant general, 214, sec. 1.

MILITIA. (Continued.)

- Regiments*, how constituted, 209—211, sec. 1—42.
 officers of, 212, sec. 5.
 to be furnished with standards, 215, sec. 2.
Resignation of officers, 212, 214, sec. 12, 13.
Returns to be made by captain, 199, sec. 1—3.
 forms of, to be furnished captains by adjutant, 199, sec. 4.
 to be consolidated, recorded and transmitted by adjutant, 199, sec. 4.
 by brigade major, 200, sec. 5.
 by quarter-master, 200, sec. 6.
 by adjutant general, 200, sec. 10, 11.
 when to be made, 200, sec. 7.
 expense of transmission of, to be paid, 200, sec. 8.
Riflemen, how formed, 202, sec. 3.
 number of, to regiment, 203, sec. 11.
 uniform of, how determined, 203, sec. 1.
 arms and equipments of, 204, sec. 6.
 may be incorporated, 221, sec. 1.
Roll to be revised in the month of April, 197, sec. 4.
 to be corrected from time to time, 197, sec. 4.
Roster to be kept by adjutant general, 214, sec. 1.
 by adjutant and clerk, 201, sec. 3.
Rules and articles, persons detached subject to, 206, sec. 7.
Selectmen to make enrolment, record and return, when, 198, sec. 8.
 neglect of, penalty, 198, sec. 9.
 to provide arms at expense of town, when, 204, sec. 11.
 to hold State arms in trust, 206, sec. 1.
 to pay persons detached, 209, sec. 11.
Sergeants, appointment of, 212, sec. 8.
Sergeant-major, appointment of, 212, sec. 5.
Sergeant, orderly, (see under this head, *Clerk*.)
Signals of alarm may be appointed, 209, sec. 9.
 neglect of, penalty, 209, sec. 9.
Staff of commander-in-chief, 212, sec. 1.
 of major general, 212, sec. 2.
 of brigadier general, 212, sec. 3.
 regimental, 212, sec. 5.
Stores, (see under this head, *Property*.)
Subalterns, arms of, 203, sec. 3.
Surgeons and mates, appointment of, 212, sec. 5.
 certificate of, to be recorded, 201, sec. 4.
Towns and cities, volunteer companies, how apportioned among, 202, sec. 4.
 responsible for safe keeping and return of arms, 206, sec. 1.
 where to receive and return arms, 207, sec. 2.
Uniform, color and fashion of, how determined, 203, sec. 1.
 exempt from attachment, 469, sec. 2.
 from execution and distress, 204, sec. 12.
Volunteers, companies of, how formed, 202, sec. 3.
 how apportioned among towns, 202, sec. 4.
 to contain how many rank and file, 202, sec. 5.
 enlistment in, when valid, 202, sec. 6.
 number of, to regiment, 203, sec. 11.
 length of service in, 202, sec. 7.
 how discharged from, 203, sec. 8.
 first ordered into service in cases of riot, &c., 208, sec. 8.
Watches, military, may be appointed, 208, sec. 2.
- MILLS AND REPAIRS.** repairs, how made, 298, sec. 1.
 selectmen, petition to, 298, sec. 2, 3; 299, sec. 8.
 to give notice, how, 299, sec. 4, 5.
 hearing before, 299, sec. 6.
 may order repairs, 299, sec. 6.
 on neglect, other owners may repair, 299, sec. 7.
 such other owners may recover cost of repairs of delinquent, how, 299, sec. 7.
 special contracts not affected, 299, sec. 9.
 toll for grinding, 299, sec. 10.

MILLS AND REPAIRS. (Continued.)

- toll for grinding, illegal, penalty, 300, sec. 11.
 taxation of mills, 112, sec. 2.
- MINISTERS** authorized to solemnize marriages, 376, sec. 6.
 fees of, for solemnizing marriages, 376, sec. 7.
 to record marriages, 284, sec. 3.
 solemnizing marriage without certificate, penalty, 376, sec. 9.
- MINORS**, penalty for voting, 89, sec. 21.
 may be bound as apprentices, 380, sec. 1, 2.
 how affected by provisions relating to limitation of actions, 460, 461, sec. 2, 8.
 not to work in manufacturing corporations more than ten hours a day, 338, sec. 26.
 nor without school privileges, 193, sec. 8.
 fines against, by whom paid, 264, sec. 22.
 See *Guardian and Ward*.
- MISCHIEF.** See *Malicious Mischief*.
- MISFEISON** of treason, punishment of, 542, sec. 2.
 indictment for, limited, 542, sec. 3.
- MISTAKE.** See *Abatement*.
- MODERATOR** of town meeting, choice and oath of, 104, sec. 3.
 duties of, 104, sec. 3, 4.
 to make vote certain by a poll of the voters, when, 104, sec. 4.
 fraud of, penalty, 104, sec. 4.
 to administer oath to town officers, 107, sec. 1.
 to notify persons chosen to office, 107, sec. 3.
 choice of, if office vacant, 104, sec. 5.
 may remove disorderly person from the house, 105, sec. 7.
 of school meetings, powers and duties of, 170, sec. 8.
 to be sworn, 170, sec. 9.
- MONEY** on hand, how taxed, 112, sec. 3.
 counterfeit, punishment for making and passing, 558, sec. 4.
 finder of, duty, 307, 308, sec. 1, 3, 4.
 payments rendered in, 490, sec. 1.
- MONTH**, word means *calendar month*, 44, sec. 7.
- MONUMENTS**, administrator may erect, when, 408, sec. 16.
 defacing, how punished, 560, sec. 11.
- MORALITY**, offences against, how punished, 559, chap. 233.
- MORTGAGED PROPERTY**, fraudulent sale of, penalty, 550, sec. 20.
 concealing, 550, sec. 21, 22.
 levies upon, 502, sec. 1.
- MORTGAGE** of personal estate, what property may be subject to, 493, sec. 1.
 must be recorded or possession taken, 293, sec. 2.
 where to be recorded, 293, sec. 2, 3.
 where no clerk is chosen, 293, sec. 4.
 affidavit of mortgage and mortgagee to be made, 294, sec. 5.
 form of, 294, sec. 5.
 of one partner sufficient, 294, sec. 6.
 to be varied if mortgage given for indemnity, 294, sec. 7.
 to be made on mortgage and recorded, 294, sec. 8.
 falsehood in, to be deemed perjury, 294, sec. 9.
 not valid, unless possession given or sworn to and recorded, 294, sec. 10.
 mortgager not to sell without written consent of mortgagee, 294, sec. 11.
 not to make second mortgage without setting forth fact, 294, sec. 12.
 such sale or mortgage by, penalty, 294, sec. 13.
 mortgagees may sell at auction, when, 295, sec. 17.
 to post up notices of time and place of sale, 295, sec. 17.
 to notify mortgager of time and place of sale, 295, sec. 18.
 may be a purchaser at the sale, 295, sec. 19.

MORTGAGE OF PERSONAL PROPERTY.

(Continued.)

- mortgagee to apply proceeds of sale to payment of amount due, 286, sec. 19.
- to pay balance, if any, to mortgagee, 286, sec. 19.
- laws relating to, not to affect bottomry, respondentia bonds, or ships at sea, 286, sec. 14.
- duty of town clerk in relation to, 285, sec. 15.
- may be redeemed by paying amount due, 286, sec. 16.
- by administrator, 407, sec. 11.
- MORTGAGE** of real estate, what deemed to be, 290, sec. 1, 2.
- condition of, to be inserted in deed, 290, sec. 2.
- to secure existing liability only, 291, sec. 8.
- to be void on performance of condition, 291, sec. 4.
- administrator may redeem, 407, sec. 11.
- mortgagee refusing to execute release, mortgager may petition court, 291, sec. 5.
- upon hearing, court may decree discharge, 291, sec. 6.
- decree recorded, to operate as release, 291, sec. 7.
- on demand, mortgagee to state amount due, 291, sec. 8.
- on refusal of mortgager, court to determine amount due, 291, sec. 9.
- amount due lodged with clerk, court to decree discharge, 291, sec. 10.
- copy of decree of discharge may be recorded, 291, sec. 10.
- issues of fact may be tried by jury, 292, sec. 11.
- petition to be filed within one year after payment, 292, sec. 12.
- after condition broken, redemption how effected, 292, sec. 18.
- foreclosure, how effected, 292, sec. 14.
- mortgager to pay for notice and publication, 292, sec. 15.
- evidence of foreclosure may be recorded, 292, sec. 16.
- powers of superior court on foreclosure, 484, sec. 9.
- levies on equity of redemption, 508, sec. 12.
- "mortgagee" and "mortgager," how construed, 292, sec. 17.
- MURDER**, degrees of, defined, and how determined, 543, sec. 1, 2.
- punishment of, 543, sec. 8.
- when and how inflicted, 574, sec. 9, 10.
- assault with intent to commit, 544, sec. 8.
- of female, by attempt to commit abortion, 545, sec. 18.
- on trial for, rights of prisoner, 573, sec. 8.
- MUTE**, prisoner standing, when arraigned, proceedings, 573, sec. 6.
- MUTUAL** fire insurance companies, how formed, 385, sec. 1.
- members of, may be witnesses, 485, sec. 12.
- See *Fire Insurance Companies*.
- NEW HAMPSHIRE REPORTS** to be subscribed for by secretary of state, 66, sec. 5.
- how disposed of, 66, sec. 5.
- NEWINGTON**, town of, exempt from division into school districts, 106, sec. 3.
- NEW TRIALS**. See *Reviews*.
- NON COMPOS** included in the words "insane," or "insane person," 45, sec. 15.
- NON-RESIDENTS**. See *Taxes*.
- NONSUIT**, in case of, defendant to have costs, 479, sec. 2.
- NON-TENURE**, on plea of, in real actions, defendant to recover costs, unless, 481, sec. 18.
- NOTARIES PUBLIC**, powers of, 69, sec. 1.
- may take depositions, 498, sec. 14.
- records of, lodged with secretary of state in case of removal, death, &c., 69, sec. 2.

NOTARIES PUBLIC. (Continued.)

- protest of, to be evidence of what facts, 70, sec. 3.
- in case of death or insanity of, administrator or guardian to deposit records, 70, sec. 4.
- papers of, may be demanded by secretary of state, 70, sec. 5.
- penalty for neglect to deliver or destroying or concealing records of, 70, sec. 6.
- records and papers of, to be safely kept and open to examination, 70, sec. 7.
- secretary of state to certify copies of papers of, 70, sec. 8.
- fees of, 592, sec. 24.
- NOTES** of unincorporated banks, void, 821, sec. 4.
- private, not to circulate as currency, 823, sec. 5.
- of incorporated banks, denominations, 823, sec. 11.
- larceny of, how punished, 549, sec. 14.
- forgery of, and passing counterfeit, 558, sec. 4; 554, sec. 6.
- altered, to be redeemed, 823, sec. 18.
- NOTICE** to town officers of their election, 107, sec. 3, 4.
- of suits. See *Actions*.
- of petitions to legislature, 46, sec. 1-8.
- of intention to commence suits against towns, 261, sec. 15.
- of claims for support of paupers, 159, sec. 10.
- order of, by court, 482, sec. 20.
- order of, may be issued in vacation, 482, sec. 21.
- of taxes, before distress made for collection, 124, sec. 2.
- of sale of property distrained for taxes, 124, sec. 6, 14.
- of the adoption of railroad laws, 840, sec. 2.
- to land owners of assessment of land damage for railroad, 845, sec. 23.
- of school district meetings, 169, sec. 1, 2; 184, sec. 12, 13.
- of dismissal to school committee, 171, sec. 14.
- of hearing upon petition for highway, by selectmen, 185, sec. 2-8.
- to towns of petition for highway, by court of common pleas, 185, sec. 2, 3.
- by road commissioners, 189, sec. 2.
- to towns of indictment for not building highway, 144, sec. 2.
- by surveyor of highways, 148, sec. 5, 6.
- of laying out highway not in any town, 148, sec. 2.
- of tax for such purposes, 148, sec. 4.
- to remove encumbrances from highways, 151, sec. 2.
- of by-laws made in relation to bridges, 153, sec. 8.
- See *Railroads*.
- NUISANCES**, health officers to make regulation concerning, 278, sec. 1.
- penalty for violating regulations of, 278, sec. 1.
- may inquire into suspected places, 278, sec. 2.
- may remove, after notice, 278, sec. 8.
- without notice, when, 274, sec. 5.
- or things injurious to health to be removed, 276, sec. 12.
- what declared to be, 274, sec. 7, 8, 9, 10.
- putrid substances, when, 274, sec. 7.
- slaughter houses in compact part of town, 274, sec. 8.
- privy within forty feet of any street, 274, sec. 9.
- bowling alley declared to be, when, 274, sec. 10.
- building structures or fence in highway, when, 162, sec. 1.
- NUNCUPATIVE WILL**, when valid, 401, sec. 15.
- requirements of, 401, sec. 15.

- OATH** or affirmation to be administered to every person chosen or appointed to office, 71, sec. 4, 5.
 holding up right hand only ceremony necessary in taking, 72, sec. 6; 485, sec. 10.
 by whom administered, 73, sec. 7.
 record of, to be kept by justice and returned to office of secretary of state, 72, sec. 8.
 of town officers, 107, sec. 1.
 form of, 107, sec. 2.
 record of, by town clerk, 108, sec. 8.
 of inspectors and their deputies, 228, sec. 8, 4.
 of masters of vessels. See *Inspections*.
 of poor debtors, 509, sec. 6.
 of grand and petit jurors, 449, sec. 28.
 of jurors upon coroner's inquest, 509, sec. 6.
 of defendant in case of usury, 491, sec. 8.
 of administrators on license to sell real estate, 418, sec. 8.
 of parties to mortgage of personal property, 294, sec. 5.
 of guardian on license to sell, 387, sec. 24.
 of witnesses before coroner, 570, sec. 10.
 profane, forbidden, 560, sec. 9.
- OATS**, standard weight of, 248, sec. 1.
- OBLIGATIONS**, joint, severed when one obligor deceased, 410, sec. 14.
- OBSCENITY**, punishment of, 262, sec. 2.
- OBSTRUCTING** officers and rescuing prisoners, 558, sec. 5—8.
- OBSTRUCTIONS** placed on railroad maliciously, punishment, 548, sec. 8.
- OBTAINING GOODS** by false pretences, 551, sec. 24.
 breach of trust, 551, sec. 25.
- OFFENCES** against the police of towns, what are, 262, chap. 119.
 brawls, tumults and disorders in streets, 262, sec. 1.
 lewd, profane and obscene songs and figures, 262, sec. 2.
 injuring and defacing buildings, trees or fences, 262, sec. 3.
 gaming and juggling, 262, sec. 4.
 firing guns, rockets or squibs in public places, 262, sec. 5.
 exposure of person by bathing in public places, 268, sec. 6.
 leaving carriages and other articles in public streets, 268, sec. 7.
 driving carriages or wheelbarrows on sidewalks, 268, sec. 10.
 being found drunk in the street, 268, sec. 11.
 prostitutes in the streets, 268, sec. 11.
 furnishing spirituous liquors to paupers, 268, sec. 12.
 trading with paupers, 268, sec. 18.
 riding fast in public streets, 264, sec. 15.
 allowing teams or carriages to go at large in public streets, 264, sec. 16.
 resisting police officer, 264, sec. 14.
 persons convicted, how punished, 264, sec. 17.
 trials to be upon complaint on oath, 264, sec. 18.
 warrants or summons to be issued on complaint, 264, sec. 19.
 offenders, upon summons, may be convicted, if not present, 264, sec. 20.
 appeal allowed, 264, sec. 21.
 fines against minors, parents and guardians liable to pay, 264, sec. 23.
 to go to towns, 266, sec. 23.
 powers and duties of police officers, 264, sec. 24.
- OFFICERS**, majority of, may act, 45, sec. 18.
 to take oath of office, 71, sec. 4.
 certain, to hold office for five years, excepting, 71, sec. 8.
 judges and sheriffs to deposit certificate of age with secretary of state, 71, sec. 1.
 not to hold office after seventy years of age, 71, sec. 2.
 to take the oath of office, 71, sec. 4.
- OFFICERS**. (*Continued.*)
 residence of, for the purpose of being voted for, 86, sec. 6.
 of towns, how chosen, 106, sec. 1.
 oath of, 107, sec. 2.
 vacancies, how filled, 109, sec. 6.
 action against, for default or misconduct, to be case, 490, sec. 12.
 powers of, on warrants, 566, sec. 19.
 of other states, rights, 568, sec. 11.
 to seize articles made or kept unlawfully, 575, sec. 22.
 wilful neglect of, penalty when no other provided, 575, sec. 23.
 how affected by repeal, 594, sec. 8.
 penalty for obstructing and hindering in official duties, 558, sec. 5—8.
 falsely assuming to be, 557, sec. 17.
 embezzlement by, 543, sec. 4.
 health. See *Health officers*.
 police. See *Police officers*.
 corporate. See *Corporations*.
 military. See *Militia*.
 town. See *Town clerk, Moderator, Selectmen*.
- OFFSET**. See *Set-off*.
- ORDER**, grace on, when allowed, 460, sec. 11.
 notarial protest of effect, 70, sec. 8.
- ORIGINAL PROCESS**. See *Writs*.
- ORNAMENTAL TREES**, destruction of, penalty, 550, sec. 19.
- OVERSEERS OF THE POOR**, choice of, 106, sec. 4.
 none chosen, selectmen to act, 106, sec. 4.
 may apply for guardianship over insane person, 386, sec. 10, 11.
 duty of, in relation to apprentices, 390, sec. 1, 3, 7.
 general duties of. See *Paupers*.
- OWNERS** of common lands. See *Proprietors of common lands*.
 may pilot their vessels, 280, sec. 4.
- PACKAGES**, blanks, laws and journals, how distributed, 65, sec. 8.
- PAGE** to contain how many words in estimating fees of recording officers, 589, sec. 8.
- PARENT** to support children, 159, sec. 8.
 duty of, in relation to children bound out, 390, sec. 7.
 to notify town clerk of birth and death of child, 284, sec. 2.
 liable for fines imposed on their children, 196, sec. 6; 264, sec. 22; 271, sec. 5.
 to furnish arms and equipments to child, 204, sec. 9.
 to sign libel for divorce brought by child, 378, sec. 7.
 may send insane child to asylum, 53, sec. 16.
 to recover penalty for joining in marriage child, contrary to law, 376, sec. 9.
- PARISHES** incorporated, with town privileges, declared to be towns, 100, sec. 2.
- PAROL** conveyances, effect of, 290, sec. 12; 534, sec. 5.
- PARSONAGE**, provision for, 369, sec. 8.
 donation for, how held, 369, sec. 8.
 conveyance of, 369, sec. 12.
- PARTITION OF REAL ESTATE**.
Agents may be appointed, petitioners unknown or incapacitated, 523, sec. 7, 8.
 to be notified by committee, 523, sec. 11.
 appointed by judge of probate, 524, sec. 22.
Application may be made to superior court, how, 522, sec. 2.
 what to contain, 522, sec. 2.
 if owners unknown, to describe the estate, 522, sec. 8.
 notice of, how given, 522, 523, sec. 4—6.
 to judge of probate, when, 524, sec. 21.
Committee to be appointed, how, 523, sec. 10.
 to give notice, 523, sec. 11, 12.
 to be sworn, 523, sec. 18.
 to make partition, how, 523, sec. 18.
 to make report, 523, sec. 18.
 to consider and adjust costs, 524, sec. 15.

PARTITION OF REAL ESTATE. (Continued.)

- Costs*, how adjusted, 524, sec. 15, 18.
Judge of probate may award, 524, sec. 23.
Issue warrant of distress for, 525, sec. 24.
Guardian to be appointed if petitioner an infant, 523, sec. 7.
 to be notified, 523, sec. 11.
 how appointed, 524, sec. 23.
Notice of application given, 524, sec. 4; 523, sec. 6.
 of hearing before committee, 523, sec. 11.
 of petition of judge of probate, 524, sec. 22.
Partition may be made, in what cases, 522, sec. 1.
 how made, 523, sec. 13.
 not avoided by conveyance, 524, sec. 19.
 nor by encumbrance, 524, sec. 19.
 nor by death, 524, sec. 19.
 may be made by judge of probate, how, 524, sec. 23.
 if share not set off to legal owner, effect, 524, sec. 20.
 how made, if estate not devisable, 525, sec. 25.
Petitioner to be notified of application, 523, 523, sec. 4—6.
 hearing before committee, 523, sec. 11, 12.
 incapacitated, guardian or agent to be appointed, 523, sec. 7.
 to recover costs, when, 524, sec. 18—19.
Petitioner failing to prosecute petition, costs to be taxed to petitioner, 524, sec. 18.
 recovering less than he claims, partition, how made, 524, sec. 18.
Report of proceedings to be made by committee, 523, sec. 13.
 judgment to be rendered on, 523, sec. 14.
 to be recorded, 523, sec. 14.
 to contain allowance of costs, 524, sec. 15.
 to be made to judge of probate, 524, sec. 23.
Trial of disputed questions to be had, 523, sec. 9.
PARTNERSHIP adjusted by superior court, 434, sec. 9.
PARTY, death of. See *Abatement*.
 nonjoinder of. See *Abatement*.
 misjoinder of. See *Abatement*.
 fees of, allowed, 590, sec. 7.
PASSENGERS, master of vessel to give bond for, when, 161, sec. 7.
PAUPERS, support of, 156—164.
Action for support of, not to be brought, until, 159, sec. 10.
 trial of, to be transferred, when, 160, sec. 15.
Apprentices, poor children bound out as, when, 158, sec. 5.
 contract to be in writing, 159, sec. 6.
 bound out by county, when, 161, sec. 3.
 treatment of, not to be inquired into, 159, sec. 6.
Bastards. See *Bastard children*.
Burial of, provided for, 159, sec. 7.
Children, legitimate, settlement of, 157, sec. 1.
 illegitimate, settlement of, 157, sec. 1.
 gain no settlement by birth, when, 157, sec. 2.
 how bound out, 158, sec. 5.
 contract to be in writing, 159, sec. 6.
County, when and how liable for expense of, 160, sec. 1.
 may purchase poor farm, 160, sec. 2.
 persons chargeable may be bound out by, 161, sec. 3.
 may send insane paupers to asylum, 57, sec. 12, 13.
Idle persons may be bound out, 158, sec. 4.
Insane may be sent to asylum by town, 57, sec. 13.
 by county, 57, sec. 14.
 supported at expense of town, when, 57, sec. 13.
 of county, when, 57, sec. 14.
Maintenance by town, 158, sec. 1.

PAUPERS. (Continued.)

- Maintenance*, expense of, may be recovered by town, when, 159, sec. 9.
 relations liable for, if of sufficient ability, 159, sec. 8.
 county liable for, when, 160, sec. 1.
Masters of vessels, not to land passengers till bond given, 161, sec. 7.
 penalty for not giving bond, 161, sec. 8.
 bond to be filed in clerk's office, 161, sec. 9.
 may be prosecuted, when, 162, sec. 9.
Notice of sums expended, to be given, 159, sec. 10.
 to be given, before action brought, 159, sec. 10.
 service of, 159, sec. 11.
 good for how long time, 159, sec. 13.
Overseers of poor, choice of, 108, sec. 4.
 none chosen, selectmen to act, 108, sec. 4.
 to relieve all poor persons, 158, sec. 1.
 to bind out idlers, 158, sec. 4.
 poor children, 158, sec. 5.
 contract to be in writing, 159, sec. 6.
 to inquire into their treatment, 159, sec. 6.
 may send insane to asylum, 57, sec. 13.
Pauperism, prevention of, 163, sec. 6, 7.
Penalty for bringing paupers into the State, 161, sec. 6.
 for bringing paupers from another county, 162, sec. 10.
 on master of vessel for landing passengers, 161, sec. 8.
Poor farm may be purchased by town, 158, sec. 2.
 by county, 160, sec. 2.
 necessary officers of, to be appointed, 158, sec. 3; 160, sec. 2.
Relations, when liable to support, 159, sec. 8.
Removal of, 162, sec. 11.
Settlement of, how gained, 158, sec. 1.
 not gained by birth, unless, 157, sec. 2.
 to continue till new one gained, 158, sec. 4.
 not gained unless under a law passed since December 31, 1796, 157, sec. 3.
Town to relieve all needy persons, 158, sec. 1.
 may purchase poor farm, 158, sec. 2.
 liable for support of paupers, 159, sec. 9.
 not liable to action till after notice, 159, sec. 10.
 ceasing to be organized, pauper, how supported, 161, sec. 4.
 may send insane paupers to asylum, 57, sec. 13.
PEACE, offences against, how punished, 568, chap. 223.
 sureties for, 564, sec. 9.
PEARL ASHES. See *Ashes*.
PEDLERS AND HAWKERS. See *Hawkers and pedlers*.
PENALTIES AND FORFEITURES, how recovered, 539, sec. 1.
 how appropriated, 539, sec. 2, 12.
 for neglect, time, how reckoned, 539, sec. 3.
 actions for, when brought, 539, sec. 5.
 in actions for, justice, when not disqualified to sit, 539, sec. 6.
 no special plea required, 539, sec. 7.
 witness not disqualified by interest, 539, sec. 10.
 actions for, limited, 539, sec. 9.
 accruing under Title 6, relating to elections, how recovered and appropriated, 98, sec. 2.
 prosecution for, in such case limited, 98, sec. 3.
 selectmen may sue for, when, 539, sec. 11.
 offender neglecting to perform sentence, to be committed, 539, sec. 12.
 defendant, if guilty, to pay costs, 540, sec. 14.
 expense of prosecution paid by county, when, 540, sec. 15.
 complainant indemnified, when, 540, sec. 16.
 recognizances, how taken, 540, sec. 17.
 when sued, 540, sec. 17.
PERAMBULATION of town lines, 110, sec. 2.
 return of, to be made, 110, sec. 2.

PERAMBULATION. (*Continued.*)

penalties for neglect of selectmen, 110, sec. 5.
court of common pleas to determine disputed line, when, 110, sec. 6.

in unincorporated places, 111, sec. 1.

PERJURY defined, and how punished, 555, sec. 1.

false swearing constitutes, 555, sec. 2.
subornation of, punishment, 555, sec. 3.
falsehood in affidavit on mortgage, deemed, 294, sec. 9.
indictment for, 555, sec. 4.
and fraud, statute for the prevention of, 459, sec. 8-10.

PERSON, the word may extend to corporations, 44, sec. 8.

offences against, 543, chap. 227.
insane and dangerous, to be committed to asylum, 57, sec. 11.

PERSONAL ACTIONS, where brought, 458, sec. 1.

limitation of, 461, sec. 4.

PERSONAL ESTATE may be mortgaged, 238, sec. 1.

offences against, 547, chap. 229.
levies upon. See *Executions*.

See *Attachment*.

PERSONATING officer, penalty, 557, sec. 17.**PEW**, one, exempt from attachment, 469, sec. 2.

how attached, 470, sec. 14.

sale of, on execution, 499, sec. 12.

PHYSICIANS to record births and deaths, 234, sec. 2.**PICKLED FISH.** See *Fish*.**PIG**, one, exempt from attachment, 469, sec. 2.**PILFERER**, common, how punished, 268, sec. 2, 3.**PILOTS**, commissioners of, how appointed, 279, sec. 1.

term of office of, 279, sec. 1.
powers and duties of, 279, sec. 1.
to publish ordinances, 279, sec. 1.
vacancies, how filled, 280, sec. 2.
fees of, how determined, 280, sec. 2.
to take charge of what vessels, 280, sec. 3.
to show branch or warrant, if requested, 280, sec. 3.
owner or master may pilot his own vessel, 280, sec. 4.
entitled to half fees, when master pilots his own vessel, 280, sec. 4.

PISCATAQUA. See *Pilots*.**PITTSBURG**, town of, exempt from division into school districts, 188, sec. 19.**PLEA** to be in the English language, 462, sec. 1.

special, not required, except, 462, sec. 2.
in action of review, 480, sec. 9.

of set-off, 483, sec. 9.

amendment of, 480, 481, sec. 10, 11.

PLURAL, construction of word, 44, sec. 1.**POISONS**, regulations for sale of, 543, chap. 228.**POLICE COURTS**, act establishing, when in force, 446, sec. 12.

justices of, how appointed, 444, sec. 1.
not to act as counsel, 444, sec. 3.
associate, how appointed, 445, sec. 10.
appeal from, allowed, 444, sec. 3.
costs and fees to be paid to towns, 444, sec. 5.
on warrants issued by justices of the peace, 444, sec. 4.

courts, how and when to be holden, 445, sec. 6.

jurisdiction in civil and criminal cases, 444, sec. 2, 3.

rules to be established, 445, sec. 6.
offenders to be arrested and tried forthwith, 445, sec. 11.

records to be kept of all proceedings, 445, sec. 8.

to be returned to court of common pleas, 445, sec. 8.

salary of justice, 445, sec. 7.

of associate, 445, sec. 10.

vote adopting act, to be filed with secretary of state, 445, sec. 12.

POLICE COURTS. (*Continued.*)

warrants of justices of the peace returnable to police court, 444, sec. 4.

POLICE OFFENCES. See *Offences against police of towns*.**POLICE OFFICERS**, act establishing board of, when in force, 257, sec. 12.

board of special police may be appointed by selectmen, 256, sec. 1.

powers of, 256, sec. 1.

superintendent of, and duties, 255, sec. 2.

compensation of, 255, sec. 2.

number of, and how appointed, 255, sec. 3.

appointments, when made, and vacancies filled, 256, sec. 4.

term of office, duties and compensation of, 255, sec. 5.

may arrest offenders on view of offence, 255, sec. 6.

may commit to custody for trial, 256, sec. 7.

keeper of jail to detain offenders, 258, sec. 8.

may make regulations respecting offences and obstructions in streets, 256, sec. 9.

regulations of, to be approved by selectmen, recorded and published, 255, sec. 10.

finer may be remitted, 257, sec. 11.

POLICY, public offences against, 551, chap. 224.

POLLS, what are taxable, 112, sec. 1.

where taxed, 115, sec. 1, 3.

valuation of, 121, sec. 1.

inventory of, to be returned to secretary of state, 122, sec. 1, 3.

ratable, not included in check list, to be entered on back thereof, 89, sec. 13.

who are, 95, sec. 3.

POOR. See *Paupers*.**POOR DEBTORS**, application, to take oath, 508, sec. 1.

Application, order of notice and hearing on, 508, sec. 2.

hearing on, may be adjourned, 508, sec. 3.

refused, in what cases, 508, sec. 4, 5.

if refused, costs taxed for creditor, 509, sec. 18.

new, not allowed till costs paid, 510, sec. 14.

on fine for larceny, 550, sec. 18.

Arrest on mesne process, 476-478, chap. 197.

on execution, debtor to give bond, 505, sec. 2.

after discharge forbidden, 509, sec. 9.

Bail on mesne process, 477, sec. 12; 478, sec. 16.

may surrender debtor, 507, sec. 7.

Bond may be given after arrest on execution, 506, sec. 1.

how approved, 506, sec. 3.

to be delivered to creditor, 506, sec. 4.

sureties on, how discharged, 508, sec. 5.

condition of broken, remedy, 507, sec. 9.

Cost on application, by whom paid, 509, sec. 13.

of former application paid, before new application allowed, 510, sec. 14.

Creditor may imprison upon surrender by bail, 507, sec. 8.

may examine as to concealment, 508, sec. 4.

Discharge by giving bond, 506, sec. 1.

by remaining at jail, how long, 508, sec. 5.

by neglect to arrest in thirty days, 507, sec. 10.

by creditor refusing to pay prison charges, 507, sec. 12.

by oath, 509, sec. 9.

not to be granted in cases of larceny, trespass, torts and bastardy, 507, sec. 13; 550, sec. 18.

on terms and conditions, when, 509, sec. 10, 11.

refused in case of fraud, 508, sec. 4.

Estate not discharged, 509, sec. 9.

Justices, petition to, to take oath, 508, sec. 1.

order of notice thereon, 508, sec. 2.

examination by, how made, 508, sec. 4.

to appraise property of debtor, 508, sec. 5.

to refuse discharge, when, 507, sec. 12; 508, sec. 4, 5.

to allow costs, 509, sec. 12.

POOR DEBTORS. (*Continued.*)

Notice to creditor, how given, 508, sec. 2.
Oath administered by justices, and form of, 509, sec. 6.
 not allowed if debtor refuses to assign property, 508, sec. 5.
 nor on second application till cost paid, 510, sec. 14.
 allowed, though debtor not competent witness, 509, sec. 12.
 certificate of, 508, sec. 8.
 to be varied, if assignment not accepted, 509, sec. 7.
Property may be assigned, 508, sec. 5.
 to be appraised by justices, 508, sec. 5.
 assignment of, not accepted, oath to be varied, 508, sec. 7.
Support of debtor in jail, 507, sec. 12.
Surrender. See *Bail*.
 by debtor, 506, 507, sec. 5, 6.
 by sureties on bond, 507, sec. 7.
PORK exempt from attachment, when, 429, sec. 2.
 See *Beef and pork*.
PORTSMOUTH, measurers of grain in, 247, sec. 1—6.
 high schools in. See *High schools*.
POSSESSION, form of writ of, 496, sec. 11.
 and seisin on levies to be given, 501, sec. 11.
 for foreclosure of mortgage, 293, sec. 14.
 by trespasser on public lands gives no title, 526, sec. 7.
POSTHUMOUS CHILDREN, how affected by will, 400, sec. 9, 10; 423, sec. 13, 14.
POT ASHES, inspection of, 240, sec. 1—14.
POTATOES, weight of, 248, sec. 2.
POUNDS and impounding, 303—305, chap. 148.
Animals may be impounded, when, 303, sec. 1.
 where to be impounded, 303, sec. 2.
 notice to owner, 303, sec. 4.
 penalty for rescuing, 305, sec. 15.
 to be fed, 305, sec. 18.
 sale of, may be ordered, when, 304, sec. 10, 11.
 may be replevied, 520, sec. 1.
Appraisers may be appointed, how, 304, sec. 7.
 duties of, 304, sec. 8.
Damages to be estimated, 303, sec. 3.
 notice of, to owner, 303, sec. 4.
 refusal to pay, effect, 304, sec. 7.
 on payment of, creatures to be discharged, 304, sec. 9.
Fees for impounding, 305, sec. 21.
 of pound keeper, 305, sec. 20.
Penalty, notice of, to owner, 303, sec. 4.
 for neglect to keep pounds, 304, sec. 14.
 suit not to be commenced till after notice, 251, sec. 15.
 for rescuing, or pound breach, 305, sec. 15.
 for neglect to feed animals, 305, sec. 18.
Pound to be provided by town, 304, sec. 14.
 none provided, cattle may be impounded, where, 303, sec. 2.
Pound keeper, choice of, 106, sec. 7.
 oath of, 107, sec. 2.
 vacancy, how filled, 109, sec. 6.
 to feed animals impounded, 305, sec. 18.
 penalty for neglect, 305, sec. 18.
 pay for food regulated, 305, sec. 19.
Pound breach, what is evidence of, 305, sec. 17.
 penalty for, 305, sec. 15.
Rams, impounding of, 287, sec. 3.
Rescue, penalty for, 305, sec. 15.
 animals rescued may be retaken, 305, sec. 16.
Strays, animals impounded, treated as, when, 304, sec. 13.
 proceedings in regard to, 307, sec. 1—13.
Town to provide pound, 304, sec. 14.
 penalty for neglect, 304, sec. 14.
 notice to be given before suit commenced, 251, sec. 16.
POWER OF ATTORNEY to convey real estate, how executed, 299, sec. 6.

PRINTING included in the word "*written*," except, 46, sec. 19.
 See *Public printer*.
PRISONERS, conveying tools to, to effect escape, penalty, 556, sec. 10.
 aiding escape of, punishment, 556, sec. 11.
 permitting escape of, by officer, 557, sec. 14.
 insane, to be removed to asylum, 58, sec. 19, 20.
 money paid on account of escape of, how recovered, 460, sec. 12.
 See *Arrest, Convicts*.
PRIVATE WAYS. See *Highways*.
PRIVATE BANKING forbidden, 321, sec. 1.
PRIVILEGED claims against estate of person deceased, 414, sec. 18, 19.
PROBATE BONDS and suits thereon, 427—429.
Action on, how brought, 423, sec. 4.
 names of parties to be endorsed on writ, 423, sec. 5, 11.
 priority of attachment, 428, sec. 10.
 new parties admitted to prosecute, how, 423, sec. 11.
 costs, how awarded, 423, sec. 18.
 no review permitted, 423, sec. 17.
Bond to be given before administrator acts, 406, sec. 12.
 may be required before or after license to sell real estate, 413, sec. 7.
 if given by heirs to pay debts, license to sell real estate not granted, 417, sec. 4.
 heirs to give, in what cases, 426, sec. 9.
 to be given to judge of probate, 427, sec. 1.
 of administrator, conditions of, 406, sec. 12.
 new may be required, when, 423, sec. 2, 3.
 forfeiture of, hearing in chancery on, 423, sec. 8.
 declaration in suit upon, 423, sec. 6.
Execution, how issued, 423, sec. 3, 9.
 for costs, how awarded, 423, sec. 16.
Judgment, how rendered, 423, sec. 8.
Scire facias on, when, 423, sec. 12, 13.
 not a bar against other obligors, when, 423, sec. 14.
 claimants, 423, sec. 15.
Review not allowed, 423, sec. 17.
Scire facias on judgment, when, 423, sec. 12, 13.
Sureties not liable to creditor after one year, 416, sec. 15.
 how discharged, 423, sec. 3.
 if insufficient, new bond required, 423, sec. 2.
PROBATE COURTS. See *Courts of probate*.
PROBATE OF WILLS. See *Wills*.
PROCESS. See *Writs*.
 against manufacturing companies, 337, sec. 23.
PROFANITY, punishment of, 560, sec. 9.
PROMISSORY NOTES, grace on, when allowed, 460, sec. 11.
 notarial protest of, effect, 70, sec. 2.
 larceny of, 549, sec. 14.
 forgery of, 553, sec. 1.
PROOF of deeds in certain cases, 239, sec. 8, 9, 10.
PROPERTY, offences against, 547, chap. 229.
 fraudulent receipt of, 550, sec. 21.
 conveyance of, 550, sec. 20.
 receiving stolen, punishment, 550, sec. 17.
PROPORTION of public taxes, 68, sec. 1.
PROPRIETARY RECORDS, copies of, to be furnished, 363, sec. 16.
 where to be lodged, 363, sec. 17, 18, 19.
PROPRIETORS of common lands, 361, chap. 151.
 annual meetings, when lost by accident, how called, 365, sec. 23.
 by-laws, how made, 361, sec. 1.
 officers, how chosen, 361, sec. 3.
 assessments, how made and collected, 362, sec. 6—9.
 records, how kept, 363, sec. 16—19.
 Masonian lands, 364, sec. 27.

PROPRIETORS. (*Continued.*)

voting, how regulated, 382, sec. 5.
of common fields, 302, sec. 20-23.

PROSECUTIONS for penalties, how brought, 538, sec. 1.

how affected by repeal, 45, sec. 27; 594, sec. 7.
on penal statute, limitation of, 530, sec. 9.
costs of, by whom paid, 540, sec. 14.

PROSTITUTES, common, how punished, 268, sec. 11.**PROVISIONS** and fuel exempt from attachment, to what amount, 490, sec. 2.**PROXY VOTING.** See *Corporations*.
by stockholders in banks, same as other corporations, 381, sec. 61.**PUBLIC HEALTH.** See *Health officers*.**PUBLIC HOUSES.** See *Licensed houses*.**PUBLIC JUSTICE**, offences against, 555, chap. 231.**PUBLIC LANDS.** See *Lands*.**PUBLIC PEACE**, offences against, 558, chap. 232.**PUBLIC PRINTER**, choice and bond of, 49, sec. 1.

compensation of, 49, sec. 2.
duties of, 50, sec. 3.

PUBLIC SHOWS regulated, 238, chap. 131.**PUBLIC WORSHIP**, disturbance of, 271, sec. 2.**PUBLICATION** of laws, statutes and journals, 47, 48, sec. 1-8.**PUBLICATION** of marriage, where to be made, 375, sec. 4.**PUNISHMENT.** See several offences.

of idle and disorderly persons, 268, sec. 1, 2, 3.

of offences against police of towns, 264, sec. 17.

of death, when and how inflicted, 574, sec. 9, 10.

of solitary imprisonment, how inflicted, 574, sec. 11.

where benefit of clergy allowed, 574, sec. 12.
on second conviction, 574, 575, sec. 13, 14, 15.

QUAKERS authorized to solemnize marriages, in what form, 378, sec. 8.**QUALIFICATION** of county officers, 80, sec. 1.**QUARANTINE**, regulations concerning, to be made by health officers, 277, sec. 1.

health officers shall require vessels to perform, 277, sec. 2.

penalty for disobeying regulations of, 277, sec. 4.

bringing vessels to wharf, 278, sec. 9.
landing without permission, 277, sec. 3.

goods landed without permission may be seized, 277, sec. 3.

sick persons may be landed, 277, sec. 5.
signal of, 278, sec. 8.

masters of vessels to give notice of disease on board, 278, sec. 11.

regulations to be communicated to masters of vessels, 279, sec. 13.

pilots, 278, sec. 12.

QUORUM of superior court, 432, sec. 1.**QUO WARRANTO**, writ of, how issued, 434, sec. 6.**RAILROADS.** See *Corporations, General Provisions*.

Accounts of receipts and expenditures to be kept, 346, sec. 29.

annual report of, to be rendered to commissioners, 346, sec. 29.

legislature, 355, sec. 68.

Actions against, for obstructing highways and bridges, 350, sec. 44.

stockholders. See *Stockholders, General Provisions*.

for penalties limited to six months, 354, sec. 65.

Adoption of laws making railroads public, 340, sec. 2.

act legalizing sale of bonds, 353, sec. 58.

vote of, to be recorded, 340, sec. 1.

RAILROADS. (*Continued.*)

Adoption of copy filed with secretary of state, 340, sec. 1.

to be published in N. H. Patriot and State Gazette, 340, sec. 1.

Agreements for business connection with other roads, 352, sec. 53, 54.

leases of other roads, how sanctioned, 353, sec. 55.

term of time leases may be agreed for, 353, sec. 55.

for fences and farm crossings, 351, sec. 46; 350, sec. 45.

Appeal from award of commissioners for increased land damage, 343, sec. 11.

when may be entered in court, 344, sec. 13.

when taken, corporation may enter upon land, 344, sec. 17.

corporation may appeal from decision of commissioners to the governor and council, 344, sec. 19.

Baggage, what amount may be carried by passengers, 330, sec. 70.

Bonds not to be invalidated because of sale at discount, 353, sec. 57.

act authorizing sale at discount must be accepted, 353, sec. 58.

Books, papers and funds to be kept in the State, 355, sec. 67.

open to inspection by stockholders, 313, sec. 25.

Cars of other persons to be drawn over road if required, 347, sec. 32.

Cattle guards, passes and farm crossing to be maintained, 350, sec. 45.

if parties disagree, three justices of peace to decide, 350, sec. 45.

Capital stock, shares how sold. See *Corporations*.

Clerks of, to be residents of the State, 355, sec. 67; 313, sec. 25.

Commissioners, number of, and how elected, 341, sec. 3, 4.

to be sworn, 341, sec. 8.

vacancies, how filled, 341, sec. 3, 5.

term of office, when to commence, 341, sec. 4.

duty to make examination of railroads, 341, sec. 6.

duty to inspect books and papers, and to report condition of railroads to governor, 341, sec. 6.

may examine officers and agents under oath, 341, sec. 7.

compensation of, 342, sec. 8; 353, sec. 61.

by whom paid, 342, sec. 8.

not to be officers or stockholders in railroads, 342, sec. 8.

to survey route when applied to for that purpose, 342, sec. 9.

to lay out railroad if public good requires, 343, sec. 10.

to report to governor and council, 342, sec. 9; 344, sec. 15.

may change location of road, 343, sec. 12.

to report land damages to governor and council, 344, sec. 15.

to town clerk, 344, sec. 18.

to report to governor and council receipts and expenditures annually, 345, sec. 29.

to regulate crossing at public highways, 352, sec. 52.

to order proper depots if corporations neglect, 353, sec. 61.

Conductors, duty to collect fares and tickets, 354, sec. 64.

to expel from cars persons refusing to pay fare, 354, sec. 64.

penalty for violation, 354, sec. 64, 65.

Connections for doing business may be regulated by the corporations, 353, sec. 53.

when cannot agree upon terms of connection, superior court to appoint referees, 353, sec. 54.

Contracts of business connection, 353, sec. 53.

RAILROADS. (Continued.)

- Contracts* for use or lease to be sanctioned by commissioner and approved by governor and council, 352, sec. 55.
- not to extend beyond five years, 352, sec. 55.
- to be filed with secretary of state, 352, sec. 55.
- Corporations* made public, 340, sec. 1.
- County road commissioners* to examine highway crossings, and direct gates and bridges, 348, sec. 37.
- to award land for gates and bridges at crossings, 349, sec. 38.
- to appraise land damages, 349, sec. 40.
- notice to land owners when land wanted for crossings, 349, sec. 40.
- report to C. C. Pleas, 349, sec. 43.
- may lay out substitute for highway at crossings, 350, sec. 44.
- Crossings at highways* to be secured by gates and bridges, 348, sec. 35.
- to be examined by road commissioners, 348, sec. 37.
- regulations concerning, in compact towns, 351, sec. 48, 49.
- making up trains at, 352, sec. 50, 52.
- penalty for violating regulations, 352, sec. 51.
- farm crossings to be maintained, 350, sec. 45.
- Damages* by fire from engine, corporation liable, 353, sec. 59.
- from negligence, liability when life lost, 354, sec. 58.
- Depots* proper for public accommodation to be maintained, 353, sec. 61.
- persons aggrieved for want of, may apply to commissioners, 353, sec. 61.
- penalty for not maintaining when required, 353, sec. 61.
- Death* caused by negligence or carelessness, penalty, 354, sec. 66.
- Discontinuance* of, not without consent of legislature, 347, sec. 33.
- Dividends* to stockholders residing in, to be paid in the State, 355, sec. 67.
- Duties* to the public, to draw the cars and freight of other persons, if requested and ordered by the legislature, 347, sec. 32.
- to keep their road in repair and transport passengers and merchandise, 347, sec. 33.
- liable to indictment for refusing, 347, sec. 33.
- to maintain proper depots, 353, sec. 61.
- to transport soldiers and munitions of war free of charge, 347, sec. 30.
- to secure crossings at highways, 348, sec. 35.
- Engines* passing public highways, speed regulated, 351, sec. 48, 49.
- running in irregular trains, how regulated, 352, sec. 52.
- Fares, rates and tariffs* to be fixed and posted in depots, 354, sec. 62.
- penalty for refusing to pay, 354, sec. 64.
- what persons required to pay, 354, sec. 63.
- not to be advanced without public notice, 354, sec. 62.
- Fences* to be maintained by corporation, 351, sec. 46.
- unless land owners agree, 351, sec. 46, 47.
- Free passes* not allowed except in certain cases, 354, sec. 63.
- Gates and bridges* at crossings of highways, 348, sec. 35.
- if corporation neglect to furnish, C. C. Pleas to order, 348, sec. 39.
- and render judgment on commissioners' report, 349, sec. 43.
- C. C. Pleas may grant authority to corporation to erect gates and bridges if necessary, 348, sec. 38.

RAILROADS. (Continued.)

- Gates and bridges*, superior court may enjoin corporation from using their road unless gates and bridges are erected, 349, sec. 43.
- Highways* not to be obstructed by cars and engines, 352, sec. 50.
- nor by constructing and maintaining railroad, 350, sec. 44.
- at railroad crossings to be secured, 348, sec. 35, 36.
- substitutes may be laid out by road commissioners, 350, sec. 44.
- Injunctions* may be issued if crossings are not properly secured by gates and bridges, 349, sec. 43.
- Individual liability.* See *Corporations*.
- Injury* to, how punished, 150, sec. 8.
- Insurance* may be effected on property of others, if exposed, 353, sec. 60.
- Intersections* with highways to be secured, 348, sec. 35, 36.
- Killing persons by carelessness*, penalty, 354, sec. 66.
- damages recovered, how appropriated, 354, sec. 66.
- Laws making public*, to be adopted and notice published, 340, sec. 1, 2.
- legalizing sale of bonds at discount, 353, sec. 58.
- Land damages*, how appraised and assessed, 348, sec. 10.
- appeal for increase of, 343, sec. 11; 349, sec. 42.
- appraisal of, when location changed, 348, sec. 12, 14.
- report of, to be returned to governor and council, 344, sec. 15.
- to town clerk, 344, sec. 18.
- to be paid only in case of entry upon land to construct road, 344, sec. 16, 17.
- in case of appeal may enter upon, if security given, 344, sec. 17.
- if not assessed on original appraisal may be on petition, 345, sec. 20.
- may be assessed at different times, 345, sec. 21.
- amount of, to be deposited with State treasurer, 345, sec. 26.
- releases of, to be received by treasurer as money, 346, sec. 27.
- for highways at railroad crossings, 349, sec. 39—42.
- Leases* shall be given of land for railroad by governor and council, 345, sec. 23.
- of part of route, 345, sec. 21.
- may be renewed, 346, sec. 24.
- of one railroad to another for use, 352, sec. 55.
- Location* of, by commissioners, 343, sec. 10.
- may be changed, 343, sec. 12.
- Negligence and carelessness*, liability for damage occasioned by, 354, sec. 66.
- Notice* of adoption of law to be published, 340, sec. 2.
- of hearing to survey route, 342, sec. 9.
- to land owners and selectmen, 345, sec. 22.
- of fares and freights to be posted in depots, 354, sec. 62.
- to state treasurer on application of justices to assess taxes, 113, sec. 4.
- Obstructions* to highway in compact towns forbidden, 352, sec. 50.
- at railroad crossings, 350, sec. 44.
- placed on maliciously, whereby life is endangered, penalty, 543, sec. 8.
- Passengers*, right of, to be transported, 347, sec. 38.
- amount of baggage entitled to have carried, 350, sec. 70.
- to pay fare, 354, sec. 63.
- Penalties* for violation of law, 350, sec. 69.
- Proxy voting.* See *Corporations*.

RAILROADS. (Continued.)

- Public duties of. See Duties to Public, (Railroads.)*
- Rails, removing of, maliciously, punishment, 548, sec. 8.*
- Real estate* may be owned not exceeding 5 per cent. of capital stock, 353, sec. 56.
- Receipts and expenditures, report of, to legislature annually, 355, sec. 68.*
- Records of, doings to be kept, 347, sec. 34.*
- to be submitted to inspection of legislature when required, 347, sec. 34.
- of adoption of law, 340, sec. 1.
- Reports, commissioners, of laying out road, 342, sec. 9.*
- of examination of books and papers, 341, sec. 6; 346, sec. 29.
- of land damages, 344, sec. 15, 18.
- of general business and affairs by directors to the legislature annually, 355, sec. 68.
- Route* to be within limits of the charter, 342, sec. 9.
- to be surveyed by commissioners, 342, sec. 9.
- discontinued when location varied, 343, sec. 12.
- may be laid out at different times, 345, sec. 21.
- damages paid only on what is laid out, 348, sec. 27.
- Selectmen of towns, with commissioners, to assess land damages, 343, sec. 10.*
- may remove rails if crossings are not properly secured, 348, sec. 38.
- Stockholders* not to be railroad commissioners, 342, sec. 8.
- may have free passes to and from meetings, 354, sec. 68.
- residents in the State entitled to dividends payable in the State, 355, sec. 67.
- private liability of. *See Corporations.*
- Taxes, one per cent. to be paid to the State, 118, sec. 4.*
- how assessed and distributed, 114, sec. 5.
- account of shares to be returned to State treasurer for taxation, 114, sec. 6.
- if not paid in due time, State treasurer to issue extent, 114, sec. 7.
- Tolls and tariffs, how established and notice of, given, 354, sec. 62.*
- may be regulated by legislature, when, 347, sec. 31.
- Treasurer of, to be resident of the State, 355, sec. 67; 318, sec. 22.*
- to furnish officer having execution against stockholder with number of shares debtor owns, 500, sec. 20.
- Voting. See Corporations.*
- RAMS** prohibited from running at large, 287, sec. 3.
- RAPE**, punishment of, 544, sec. 6.
- attempt to commit, how punished, 544, sec. 8.
- REAL ACTIONS**, limitation of, 460, sec. 1, 2.
- administrator may prosecute, when, 410, sec. 7; 411, sec. 18, 19.
- may review, although estate insolvent, 410, sec. 9; 411, sec. 16.
- justice of the peace not to try when title in dispute, 442, sec. 8.
- if defendant disclaims title, he shall recover costs, 431, sec. 13.
- writs in, to be summons or attachment only, 462, sec. 8.
- service, how made when defendant not an inhabitant of the State, 467, sec. 8.
- defendant not liable to arrest on mesne process, 477, sec. 6.
- views of premises by jury, when ordered, 484, sec. 1.
- See Actions.*
- REAL ESTATE**, meaning of the term, 45, sec. 17.
- contract for sale of, to be in writing, 459, sec. 8.

REAL ESTATE. (Continued.)

- sale of, for taxes of residents, 125, sec. 12.
- of non-residents, 128, sec. 9.
- by administrator, 417, chap. 173.
- what is deemed to be, and how taxed, 118, sec. 2.
- to whom taxed, 116, sec. 9.
- how taxed when occupant refuses to be taxed for it, 117, sec. 11.
- rents of, to be collected by administrator, 407, sec. 10.
- license granted to administrator to sell, when, 417, sec. 1.
- to specify what may be sold, 417, sec. 3; 418, sec. 5.
- to executor, when may be granted, 418, sec. 11.
- sale of wife's right of dower in, when she is insane, how effected, 419, sec. 1, 2.
- levies on. *See Execution.*
- actions for recovery of, limited, 460, sec. 1, 2.
- See Husband and wife, Conveyance, Deed, Attachment, Mortgages, Partition, Dower.*
- RECEIVING** stolen goods, penalty for, 550, sec. 17.
- RECOGNIZANCE** to be taken in the name of the State, 540, sec. 17.
- may be tried in the county where taken, 540, sec. 17.
- when forfeited, justices of C. C. Pleas may indemnify complainant, 540, sec. 16.
- before justice of the peace, proceedings therein, when forfeited, 568, sec. 20.
- limitation of actions on, 461, sec. 5.
- for violation of law as to licensed houses, 270, sec. 9.
- for disturbing religious meetings, 272, sec. 7, 8, 11.
- of idle and disorderly persons, 268, sec. 4.
- of hawkers and pedlars, 282, sec. 7.
- before justices of the peace in civil cases, 442, sec. 7.
- RECORDS** of oaths of town officers, by town clerks, 108, sec. 8.
- of votes, 108, sec. 1.
- notices of strays and goods found, 808, sec. 2.
- to be made by register of probate, 896, sec. 6.
- of conveyances of real estate, 238, sec. 1; 239, sec. 4.
- of deed discharging mortgage of real estate, 291, sec. 7.
- of evidence of foreclosure of mortgage, 292, sec. 16.
- of mortgage of personal property, 295, sec. 14.
- of contract with wife that she may hold real estate to her own use, 832, sec. 14.
- of conveyance of real estate to wife to her separate use, 832, sec. 14.
- of marriage, copy of, sufficient evidence in courts, 376, sec. 11.
- of depositions in perpetuum, 497, sec. 23; 499, sec. 5.
- of births, marriages and deaths, how kept, 284, chap. 132.
- copies of, agreed to between parties, effectual, 441, sec. 7.
- of justice courts. *See Justices of the peace.*
- false making of, by town clerk, penalty, 557, sec. 18.
- of corporations, open to inspection, 318, sec. 25.
- clerks of, to furnish copies, when, 318, sec. 26.
- of list of stockholders by town clerk, 315, sec. 9.
- of transfers of shares, 315, sec. 9.
- of railroad, their business, &c., 347, sec. 34.
- of adoption of the law, 340, sec. 1.
- to be submitted to inspection of legislature, when, 347, sec. 34.
- of police regulations, 286, sec. 10.
- proprietors of common lands, 863, sec. 17, 18, 19.

RECORDS. (*Continued.*)

- of division of fences of common fields, 302, sec. 21.
- by owners, 300, sec. 2.
- by fence viewers, 300, sec. 3.
- copy of, to be evidence, 300, sec. 3.
- fireward regulations, 264, sec. 8.
- appointment of engine and hose men, 264, sec. 10.
- of redemption of land sold for taxes, 128, sec. 12.
- of land set off on execution, 501, sec. 11.
- of equity sold on execution, 503, sec. 8.
- of invoice of taxes, 121, sec. 8.
- of notary public, when and where deposited, 69, sec. 2.
- of justices of the peace, when and where deposited, 448, sec. 17.
- amendment of, 98, sec. 4; 430, sec. 10.
- fire proof safe for, to be provided in each county, 396, sec. 1.
- RECORDING OFFICERS,** fees, 599, sec. 3.
- REFERENCE OF DISPUTES,** acknowledgment of agreement before justice, 536, sec. 3.
- Agreement* to refer, form of, 536, sec. 2.
- to be acknowledged, 536, sec. 3.
- specific demand may be annexed, 536, sec. 4.
- not to be revoked, 536, sec. 6.
- may specify time and place of hearing, 536, sec. 7.
- of making award, 536, sec. 7.
- Award* may be made by majority, 536, sec. 8.
- must state that all the referees attended, 536, sec. 8.
- to be returned to court, 537, sec. 10.
- to remain sealed till opened by clerk, 537, sec. 10.
- need not be returned to court, when, 537, sec. 11.
- to be at disposal of court, 537, sec. 12.
- judgment rendered by justice, when, 537, sec. 16.
- Controversies* may be submitted to referees, 536, sec. 1.
- Court,* duty of, upon return of report, 537, sec. 12, 13.
- may render judgment and issue execution, 537, sec. 13.
- Demands,* specific, may be annexed to agreement, 536, sec. 4.
- general, need not be annexed, 536, sec. 5.
- Justices* to render judgment and issue execution, when, 537, sec. 16.
- fees of, 537, sec. 14.
- Referees,* all must hear parties, 536, sec. 8.
- majority of, may make award, 536, sec. 8.
- power of, 537, sec. 9.
- may administer oath, 537, sec. 9.
- may make known award, when, 537, sec. 11.
- duty of, on recommitment, 537, sec. 12.
- may allow reasonable costs, 537, sec. 15.
- may make report to justice, when, 537, sec. 16.
- REGISTER OF DEEDS,** choice of, 80, sec. 1.
- to give bonds, 83, sec. 1.
- bond may be enforced for default of duty, 83, sec. 2.
- office of, to be kept open daily, 83, sec. 3.
- duties of, 83, sec. 4, 5, 6, 7.
- to distribute laws, blanks and journals, 65, sec. 2.
- penalty for neglect of duty, 83, sec. 3.
- fees of, 591, sec. 17.
- REGISTER OF PROBATE,** office of, where kept, 396, sec. 2.
- in Merrimack county, 396, sec. 3.
- not to act as commissioner or appraiser, 396, sec. 4.
- to furnish blanks to appraisers, 396, sec. 5.
- form of blanks to appraisers, 396, sec. 5.
- to record what, 396, sec. 6.
- salary of, 396, sec. 12.

REGISTER OF PROBATE. (*Continued.*)

- salary of, payable on certificate, 396, sec. 7.
- fees of, when allowed, 396, sec. 8.
- receipts for, to be given, 396, sec. 9.
- duty to provide blanks, 396, sec. 10.
- to adjourn court, when, 396, sec. 11.
- to reside in the town where records are by law to be kept, 396, sec. 12.
- RELIEF OF POOR DEBTORS.** See *Poor Debtors.*
- RELIGIOUS MEETINGS,** rudeness in, forbidden, 271, sec. 2.
- penalty for such offences, 271, sec. 3; 272, sec. 7.
- persons making disturbance in, may be removed, 271, sec. 4, 6.
- offenders to recognize to C. C. Pleas, 272, sec. 7, 8.
- parents and guardians liable for fines, 271, sec. 5.
- sale of liquors forbidden at, 272, sec. 9.
- penalty for selling, 272, sec. 10.
- horse racing near meetings, 272, sec. 11.
- limitation of prosecutions for such offences, 272, sec. 13.
- RELIGIOUS SOCIETIES** with corporate powers, how formed, 367, sec. 1, 2.
- by-laws and seal, 368, sec. 3.
- may assess and raise money, 368, sec. 5.
- officers of, 368, sec. 6, 7.
- property of, limited, 368, sec. 7; 369, sec. 14.
- how held, controlled and disposed of, 369, sec. 8, 9, 10, 11.
- RELIGIOUS MEETING HOUSES,** proprietors of, may sell at auction, 370, sec. 16.
- meetings of, for the purpose and notice, 370, sec. 17.
- proceeds of sale, how divided, 370, sec. 18.
- REMAINDER,** estate in, how barred, 367, sec. 1.
- RENTS AND PROFITS** of mills, liable for the repairs of, 299, sec. 7.
- right of dower in, 420, sec. 6.
- to be received by administrator, 407, sec. 10.
- REPAIRS OF MILLS,** owners to make, in proportion to interest, 298, sec. 1.
- may apply to selectmen to determine repairs, 298, sec. 2.
- petition to set forth names of owners and their interest, 298, sec. 3.
- selectmen to give notice of time and place of hearing, 299, sec. 4.
- to whom it may be given, 299, sec. 5.
- may order repairs, when, 299, sec. 6.
- other owners may repair on neglect of delinquent, 299, sec. 7.
- where mill in two towns, proceedings, 299, sec. 8.
- special contracts not affected, 299, sec. 9.
- by tenant in dower, 420, sec. 7.
- REPEAL,** effect of, in civil cases, 45, sec. 23.
- in criminal cases, 45, sec. 27.
- by revised statutes, 533, 534, sec. 2—12.
- not to revive acts repealed, 45, sec. 23.
- REPLEVIN,** form of writ of, 464, sec. 14.
- of cattle impounded, 520, sec. 1.
- of goods attached on mesne process, 520, sec. 2.
- exempt from attachment, 520, sec. 3.
- where to be brought, 520, sec. 4.
- plaintiff in, to give bond, 520, sec. 5.
- officer serving writ of, may seize property, how, 520, sec. 6.
- REPORTER.** See *State Reporter.*
- REPORTS,** New Hampshire, secretary of state to subscribe for, 66, sec. 5.
- how distributed, 66, sec. 5.
- REPRESENTATIVES** in congress, meetings for choice of, when holden, 92, sec. 3.
- meetings, how warned and governed, 92, sec. 4.
- election of, how made, 92, sec. 5.
- governor to issue certificate of election, 92, sec. 5.
- proceedings when two or more receive same number of votes, 92, sec. 6.

REPRESENTATIVES. (*Continued.*)

votes to be recorded and transmitted to secretary of state, 92, sec. 7.
 secretary to lay votes before governor and council, 92, sec. 8.
 when no choice on second balloting, 92, sec. 9.
 vacancy, proceedings in case of, 92, sec. 10.
REPRESENTATIVES to the general court, in towns not classed:
 meeting for the choice of, when holden, 96, sec. 1.
 certificate of election, how signed and what to contain, 96, sec. 2.
 number of, how determined, 96, sec. 3.
 in towns specially authorized to send, clerk to note fact on margin of certificate, 96, sec. 4.
 towns specially authorized to send, 96, sec. 5.
 in towns classed:
 meeting for choice of, when holden, 96, sec. 6.
 where and how called, 96, sec. 7.
 warrant for, to be posted up, 96, sec. 8.
 check list to be lodged with town clerk, and posted up, 96, sec. 9.
 selectmen to correct check list, 96, sec. 10.
 copy of check list to be filed with town clerk, 97, sec. 11.
 proceedings at the meeting, 97, sec. 13.
 vacancy in office of town clerk, how filled, 97, sec. 13.
 penalty for neglect of selectmen or town clerk, 97, sec. 14.
 list of towns classed, 97, sec. 15.
RESCUE of prisoner from officer, penalty, 556, sec. 5-8.
 from police officers, 264, sec. 14.
 from confinement in prison, punishment, 556, sec. 9-11.
 aiding of prisoner to escape, 556, 557, sec. 9-18.
 of cattle impounded, 305, sec. 15.
 evidence of rescue, what sufficient, 305, sec. 17.
RESISTING officer, penalty for, 556, sec. 5-8.
 of police, 264, sec. 14.
RESOLVES, joint, form of, 47, sec. 4.
RETURNS, by selectmen, of collector's taxes, 122, sec. 7.
 of inventories to secretary of state, 122, chap. 46.
 town clerk, penalty for false, 557, sec. 18.
 blanks for, of inventories, 123, sec. 6.
 of votes. See *Votes*.
REVERSION OF DOWER, sale of, 417, sec. 2.
 partition of, 424, sec. 1; 426, sec. 10.
REVERSIONS, estate in, how barred, 287, sec. 1.
 award of highway damages, to owner of, 186, sec. 16.
REVIEW, service of writ of, 466, sec. 2.
 when defendant lives out of the State, 467, sec. 2.
 action of, for and against insolvent estate, when, 411, sec. 16.
 not allowed on appeal from commissioner of insolvency, 416, sec. 11.
 nor in suit on probate bonds, 429, sec. 17.
 where allowed in suit before justice, 430, sec. 9.
 where issue of fact is joined, 498, sec. 1.
 in special cases, 498, sec. 2.
 by administrator against insolvent estate, 410, sec. 9.
 administrator may prosecute review, 411, sec. 16-20.
 costs of, when limited, 494, sec. 10, 12.
 when allowed, 498, sec. 4; 494, sec. 10, 11.
 evidence in, new, may be introduced, 494, sec. 9.
 copies of all papers used on first trial may be used, 494, sec. 8.
 execution not stayed by, 494, sec. 18.
 judgment rendered in, 494, sec. 10.
 limitation of actions, as of right, 494, sec. 5.
 of minors and insane, excepted, 494, sec. 5.

REVIEW. (*Continued.*)

petitions for, to superior court, 498, sec. 3.
 to contain what, 498, sec. 3.
 where to be presented, 498, sec. 3.
 notice of, to be given adverse party, 498, sec. 8.
 superior court may grant review on petition, 498, sec. 2.
 not after three years, 494, sec. 6.
 to be commenced in ninety days, 494, sec. 6.
 writs of, where returnable, 494, sec. 7.
 may be granted by superior court, when, 498, sec. 2.
REVISED STATUTES, when to take effect, 592, sec. 1.
 how cited, 592, sec. 2.
 acts and parts of acts repugnant to, repealed, 592, sec. 3.
 repeal of acts by, effect of, 592, sec. 3; 594, sec. 12.
 list of acts repealed by, 594, sec. 13.
REVOCATION OF WILLS, how made, 401, sec. 13, 14.
REWARDS for apprehension of criminals, 562, chap. 236.
RIDING FAST, penalty for, in streets, 264, sec. 15.
RIOTS, punishment of, 558, sec. 3, 4.
 proclamation, how made, 558, sec. 4.
RIVER, Connecticut, the western line of the State, 110, sec. 1.
ROBBERY, punishment for, 544, sec. 5.
 attempt to commit, 562, sec. 3.
 assault with intent to commit, 544, sec. 8.
ROCKINGHAM COUNTY, boundaries of, 73, sec. 2.
ROGUES, punishment of, 268, sec. 2.
RULES OF COURT, for practice, how made, 435, sec. 12.
RULES for construction of statutes, 44.
SAID, meaning of the word in the statutes, 46, sec. 30.
SALARIES of public officers, 584, chap. 244.
 to be paid quarterly, 586, sec. 15.
 of sheriffs, 586, sec. 13.
 how paid, 586, sec. 13.
 of county treasurers, 586, sec. 14.
 how paid, 587, sec. 17.
SALE of land, contract for, to be in writing, 459, sec. 8.
 real estate by administrator, 417, chap. 173.
 by guardian, 385, sec. 7; 387, sec. 23.
 by guardian living out of the State, 393, sec. 33.
 wife's interest in, when she is insane, how effected, 419, sec. 1, 2.
 of personal, on execution, 496, sec. 3.
 equities of redemption, 502, chap. 209.
 goods when contract for, to be in writing, 459, sec. 10.
 of merchandize regulated. See *Inspection, Lumber, Beef and Pork, Butter and Lard, &c.*
SAVINGS BANKS. See *Banks*.
SCHOOLS, absentees from, towns may make ordinances to regulate, 180, sec. 1.
Absentees, committee appointed to make complaints, 180, sec. 2.
 may be committed to house of correction, 181, sec. 3.
 unable to pay a fine may be discharged, 181, sec. 4.
 bond may be given and fine remitted, 181, sec. 5.
Apportionment of school money, how made, 175, sec. 4.
 if selectmen neglect, penalty, 175, sec. 6.
 for maintenance of high school, 183, sec. 5.
Assessment of taxes for purposes of schooling, 175, sec. 1.
 ward's personal property to be assessed in district where he lives, 175, sec. 5.
 on districts divided, 166, sec. 3.

SCHOOLS. (Continued.)

- Assessment of taxes on districts neglecting to build, make repairs, &c., 173, sec. 6.*
 for purposes of high schools, 186, sec. 16.
Books, class books to be directed by superintending committee, 178, sec. 12.
 parents and guardians to furnish books for children, 178, sec. 12.
 poor children to be provided with, 179, sec. 14.
 towns and cities to furnish books for poor scholars, 179, sec. 15.
 sectarian and political books excluded, 178, sec. 13.
 exempt from attachment, 460, sec. 2.
Clerks of school districts, choice of, and qualifications, 170, sec. 7.
 to be sworn, 170, sec. 10.
 to keep record of meetings and their doings, 170, sec. 10.
 to certify to selectman vote to raise money, 170, sec. 10.
 shall be a legal voter in the district, 170, sec. 7.
 vacancy how filled, 171, sec. 11.
Check list, when may be used, 171, sec. 16, 17.
Children, poor, to be furnished with books, 179, sec. 14, 15.
 not to be employed in factories without school privileges, 192, chap. 84.
 penalty for employing without certificate, 193, sec. 3.
Committee, prudential, how chosen, 170, sec. 7.
 duty to call annual and special meetings, 169, sec. 1, 2.
 to select and hire teachers, 171, sec. 12.
 to repair school houses, 171, sec. 12.
 to notify superintending committee of commencement of school, 171, sec. 12.
 to provide suitable place for school room when district destitute, 178, sec. 8.
 to post up check list, 171, sec. 16.
 of high schools, how constituted, 182, sec. 3.
 their duties, 182, sec. 3.
 in Portsmouth, how constituted, 186, sec. 2.
 their duties, 186, sec. 3.
 may be removed for incompetency or mismanagement, 171, sec. 13, 14, 15.
 penalty for misapplying school money, 176, sec. 7.
superintending, election and appointment of, 177, sec. 1.
 duty to examine teachers and inspect schools, 177, sec. 2.
 to dismiss unfit teachers, 177, sec. 8.
 to dismiss disobedient scholars, 177, sec. 4.
 to class scholars if district neglect, 178, sec. 6.
 to determine class books, 178, sec. 12.
 to make annual report to town, 179, sec. 16.
 compensation of, 179, sec. 17.
 not to be paid unless their duties are performed, 179, sec. 18.
 of high schools, how appointed, 184, sec. 10.
 their duties, 187, sec. 10.
 in Portsmouth, how constituted, 186, sec. 4.
 duties, 186, sec. 5.
 in Somersworth, district No. 3, how appointed, 188, sec. 1.
 to report condition of schools to secretary of state, 190, sec. 8.
 upon neglect responsible for literary fund belonging to their town, 190, sec. 5.
Commissioners of, how appointed and tenure of office, 189, sec. 1.
 to constitute a board of education, 189, sec. 2.
 of counties to meet in Concord, 189, sec. 2.
 time to be spent in visiting schools, 190, sec. 6.
 time when services commence, 191, sec. 14.

SCHOOLS. (Continued.)

- Commissioners to take charge of teachers' institute, 190, sec. 6.*
 shall recommend books and modes of instruction, 189, sec. 2.
 secretary of board to be chosen, 189, sec. 2.
 to receive account of schools from secretary of state, 190, sec. 3.
 not to be employed as agent of booksellers, 191, sec. 13.
 duty to report condition of schools to general court, 190, sec. 7.
 secretary of state to furnish blanks, 190, sec. 7.
 salaries of commissioners, 191, sec. 8.
 pay for extra services, 191, sec. 9, 10, 11.
 pay of secretary, 191, sec. 12.
Costs on locating school house, how paid, 178, sec. 4.
Districts to be defined by metes and bounds, 166, sec. 1.
 record of boundaries to be kept, 166, sec. 2.
 constituted a body politic and corporate, 166, sec. 4.
 penalty for not dividing into school districts, 166, sec. 6.
 two or more districts may unite for purposes of schooling, 166, sec. 9.
 when united to maintain separate organization, 167, sec. 10.
 to raise equal portions of school money, 167, sec. 10.
 selectmen of adjoining towns may unite districts or form new districts, 167, sec. 12.
 when new district formed, property and debts to be appraised, 166, sec. 7.
 made equal, 166, sec. 8.
 members of one district may be disannexed from and annexed to another district, 167, sec. 12.
 composed of inhabitants of different towns, how money raised to build, repair and furnish school houses, 167, 169, sec. 15, 17.
 when persons disannexed, literary fund made equal, 169, sec. 18.
 officers of, how chosen, and qualifications of, 170, sec. 7.
 vacancies, how filled, 167, sec. 14.
 meetings in, when and how holden, 169, sec. 1.
 special, may be called, 169, sec. 2.
 scholars may be classed, 173, sec. 6.
 may adopt Somersworth act for high schools, 184, sec. 9.
 inhabitants to be assessed for payment of debts, 167, sec. 11.
 education, what branches to be taught in, 168, sec. 6.
Fines for illegal voting, 170, sec. 6.
 against truant children, how ordered, 190, sec. 1.
Furniture for school houses to be provided, 172, sec. 1.
 in united districts, how provided, 167, sec. 10.
 for two or more school houses, 174, sec. 12.
High schools, districts may unite to form, 182, sec. 2.
 associated for high schools, made corporations, 182, sec. 2.
 officers of, who and how appointed, 182, sec. 3.
 money for support of, how raised, 182, sec. 4, 7; 185, sec. 18.
 one fourth of school money assigned for, 183, sec. 5.
 law allowing districts to unite to be adopted by towns, 183, sec. 8.
 of 100 scholars to have high school, 184, sec. 11.
 Somersworth act may be adopted in any district of 100 scholars, 185, sec. 15.
 for high schools may be adopted by towns, 184, sec. 9.

SCHOOLS. (Continued.)

High schools, prudential committee of, how appointed, and their duties, 182, sec. 8.
superintending committee, 184, sec. 10.
teachers, qualification of, 183, sec. 6.

Houses, how erected, repaired and furnished, 172, sec. 1.

taxes for, how raised, 174, sec. 9.
two or more may be maintained in one district, 174, sec. 12.

for high schools, how erected, repaired, &c., 183, sec. 4.

assessment of taxes for building and repairing in united districts, 167, sec. 15.

all inhabitants to pay just proportion, 168, sec. 16.

how repaired, altered and furnished in united district, 167, sec. 10.

selectmen to build if district neglect, 173, sec. 6.

to locate school house if district do not agree, 173, sec. 5.

location of, and land for, 172, sec. 1.

persons aggrieved by location, remedy, 173, sec. 2, 8; 174, sec. 18.

expenses of changing location, how paid, 173, sec. 4.

land for school house may be one acre, 172, sec. 1.

high school, 183, sec. 4.

to revert to original owner when district discontinues use, 173, sec. 8.

selectmen to lay out lot if owner refuse to sell, 173, sec. 7; 186, sec. 17.

if out of repair, prudential committee to provide, 176, sec. 8.

Literary fund, how created, 198, sec. 1.

by whom to be managed, 194, sec. 2.

how assigned, 194, sec. 4.

how apportioned, 194, sec. 6.

not to be paid to towns that neglect to make school report, 190, sec. 4.

superintending committee responsible for amount of, 190, sec. 5.

unincorporated places, how distributed to, 194, sec. 5, 8.

penalty for misapplication of, 194, sec. 7.

Land for school house lot, how laid out, 172, sec. 1.

when owner refuses to sell, 173, sec. 7.

for high schools, amount allowed for, 186, sec. 17.

reverts to owner, when, 173, sec. 8.

Meetings, annual, how and when holden, 169, sec. 1.

notice of, how given, 169, sec. 1; 184, sec. 12, 13.

special, when and how called, 169, sec. 2; 184, sec. 18.

justice of the peace may call, when, 184, sec. 14.

warrant for, to be recorded, 170, sec. 4.

to be issued by selectmen if committee neglect, 168, sec. 8.

moderator of, how chosen, his powers and duties, 170, sec. 8.

to be sworn, 170, sec. 9.

what persons qualified to vote in, 170, sec. 5.

penalty for illegal voting in, 170, sec. 6.

Misconduct committed as truants may be discharged in certain cases, 181, sec. 4.

Moderator of school meetings, how chosen, 170, sec. 8.

powers and duties of, 170, sec. 8.

to be sworn, 170, sec. 9.

Money, how raised for school purposes, 169, sec. 2.

how appropriated, 176, sec. 3.

to be assigned to each district, 176, sec. 4.

penalty for not assessing and assigning, 176, sec. 6.

for not expending according to law, 176, sec. 7.

how to be expended in united districts, 166, sec. 9.

SCHOOLS. (Continued.)

Money, how raised for support of high schools, 183, sec. 4; 186, sec. 15, 16.

one fourth of, to be assigned for high schools, 183, sec. 5.

for high schools in Portsmouth, 187, sec. 11.

for support of teachers' institute, how raised, 192, sec. 2, 8.

Notice of school meetings, how given, 169, sec. 1, 2; 184, sec. 12.

to prudential committee on petition to dismiss, 171, sec. 13, 14.

to teachers on petition to dismiss, 177, sec. 8.

Officers of school districts, qualifications, 173, sec. 7.

how elected, 170, sec. 8-10.

vacancies, how filled, 167, sec. 14; 171, sec. 11.

Penalty for misapplying school money, 173, sec. 7.

for not assessing and paying over money, 175, sec. 6; 187, sec. 13.

for scholars returning to school after dismissed, 177, sec. 5.

superintending committee for not making report, 190, sec. 5.

for not dividing towns into districts, 183, sec. 6.

Portsmouth special schools, 186, chap. 80.

prudential committee of, how constituted, 186, sec. 2.

their duties, 186, sec. 3.

regulation of schools, 186, sec. 8.

superintending committee, how constituted, 186, sec. 4.

duties, 186, sec. 6.

committees to make report, 186, sec. 7.

teachers' qualifications, 187, sec. 9.

money to be assigned and paid over, 187, sec. 11.

Prudential committee. See *School committee*.

Scholars to be supplied with books, 173, sec. 13-15.

may be divided into classes, 173, sec. 6.

not to attend school in other districts without consent, 173, sec. 7.

district of over 100 may have high school, 184, sec. 11; 186, sec. 15.

truant to be controlled by town committee, 180, sec. 1.

disobedient, to be dismissed by committee, 177, sec. 4.

penalty for returning after dismissal, 177, sec. 5.

Selectmen, duty to divide town into districts, 163, sec. 3.

penalty for neglect, 163, sec. 6.

to appraise property when districts unite, 168, sec. 7, 8.

may form districts by union of inhabitants of adjoining towns, 167, sec. 12.

to assess taxes for school purposes, 175, sec. 1.

to assign school money, 175, sec. 4.

jointly to assess taxes in united districts, 167, sec. 15.

to lay out lot for school house, 173, sec. 7.

may build and repair school house if district neglect, 173, sec. 6.

may call special meetings, 169, sec. 2.

may remove prudential committee, when, 171, sec. 13.

may fill vacancies, 167, sec. 14.

Somerset high school in district No. 2, 186, chap. 81.

superintending committee, how appointed, 188, sec. 1.

their duties, 188, sec. 2.

may make by-laws and appoint sub-committee, 188, sec. 2.

may class scholars, 188, sec. 4.

teachers, qualifications of, 183, sec. 3.

may hire money, 189, sec. 6.

SCHOOLS. (*Continued.*)

- Somersworth* exempt from general provisions, 189, sec. 7.
 land for school house lot, 189, sec. 5.
Superintending committee. See *School committee.*
Tax, assessment and apportionment of, 175, sec. 1; 121, sec. 8, 6.
 may be raised at any legal meeting, 175, sec. 2.
 how appropriated, 175, sec. 8.
 penalty for neglect of selectmen to assess, 175, sec. 6.
 ward's personal estate, how taxed, 175, sec. 5.
 assessed on union of districts, 168, sec. 8.
 in two adjoining towns, 168, sec. 17.
 joint tax in union district, how collected, 168, sec. 17.
 assessed for school house and school house lot, 174, sec. 9.
 assessed for high school purposes, 185, sec. 16.
 penalty for neglect to assess, 187, sec. 18.
 new invoice may be made for building and repairing school houses, 174, sec. 10.
 non-resident for building and repairing, how collected, 174, sec. 11.
 for building and repairing, &c., in Portsmouth, 187, sec. 12.
 to pay debts of district, 167, sec. 11.
Teachers, qualification of, 178, sec. 8, 9.
 of high schools, 183, sec. 6.
 of, in Portsmouth, 187, sec. 9.
Somersworth, 188, sec. 3.
 to produce certificate from superintending committee, 177, sec. 2; 178, sec. 11.
 to be dismissed if incompetent, 177, sec. 8.
 to make report to superintending committee, 178, sec. 19.
 to inculcate morals, 179, sec. 20.
 compensation of, 178, sec. 10.
Teachers' Institute may be supported in each county, 192, sec. 1.
 money for support of, how raised, 192, sec. 2, 3.
 county school commissioner to take charge of, 190, sec. 6.
Towns not divided to be considered as one district, 166, sec. 5.
 what are exempt from division, 168, sec. 19.
 may make ordinances for control of truant children, 180, sec. 1.
 to raise money for support of teachers' institute, 192, sec. 1, 2.
Truant children. See *Absentees, Schools.*
Vacancies, how filled, 167, sec. 14; 171, sec. 11; 186, sec. 6.
Voters, who are qualified, 170, sec. 5.
Voting illegal, penalty, 170, sec. 6.
Ward's personal property, where taxed, 175, sec. 5.
Warrants to be recorded, 170, sec. 4.
SCIRE FACIAS against administrators, 410, sec. 13.
 against bail, 511, sec. 5.
 on judgment of justice, where brought, 459, sec. 3.
 against endorser of writ, how soon to be served, 466, sec. 19.
 on bond, for benefit of attaching creditors, 472, sec. 29.
 on replevin bond, 472, sec. 28, 29.
 on judgment on bond forfeited, 461, sec. 10.
 form of writ of, 465, sec. 16.
 service of, 466, sec. 2.
 when defendant lives out of the State, 467, sec. 9.
SEAL, meaning of, 44, sec. 9.
 of the State, description of, 65, sec. 1.
 to be kept and affixed by secretary of state, 65, sec. 1.
SEARCH WARRANTS, how regulated, 565, sec. 12, 13.

- SEA WEED,** regulations and penalties concerning, 230, chap. 129.
SECRETARY OF STATE, duty to inform attorney general of neglect of selectmen to return inventory, 123, sec. 5.
 to furnish selectmen with blank inventories, 123, sec. 6.
 to publish returns of condition of banks, 327, sec. 39.
 is commissioner to take charge of literary fund, 194, sec. 2.
 to keep and affix seal of the State, 65, sec. 1.
 to distribute blanks for return of votes, 65, sec. 2.
 in what manner to send packages, 65, sec. 3.
 to arrange and file papers in his office, 66, sec. 4.
 to subscribe for N. H. Reports, 66, sec. 5.
 to dispose of reports, how, 63, sec. 5.
 to demand and keep notarial papers, when, 70, sec. 5, 7.
 to give certified copies of notarial papers, 70, sec. 8.
 to receipt for return of votes, 91, sec. 4; 94, sec. 3.
 to countersign certificate of election to congress, 92, sec. 5.
 to lay returns of votes for members of congress before governor and council, 92, sec. 8.
 to lay return of votes for electors before legislature, 94, sec. 4.
 to receipt for return of votes for electors, 94, sec. 3.
 to certify to county solicitors default in return of votes, 93, sec. 1.
 to pay sheriff's fees for return of votes, 99, sec. 9.
 duty of, in relation to papers in forfeiture of grant, 518, sec. 14.
 to furnish printer with copy of laws and journals, 47, sec. 2.
 to distribute laws, 47, sec. 3.
 to cause public acts to be published in newspapers, 48, sec. 4.
 to distribute laws of United States to towns, 48, sec. 5.
 to distribute journals, 48, sec. 7.
 to cause twenty copies of laws, resolves and public documents to be bound for governor to transmit to foreign agents, 49, sec. 8.
 to record deeds of State lands, 64, sec. 8.
 fees of, 592, sec. 23.
 salary of, 694, sec. 2.
SECULAR BUSINESS forbidden on Sunday, 271, sec. 1.
SELECTMEN, choice of, 105, sec. 2.
Abatement of taxes by, 117, sec. 17.
 for cause shown, 123, sec. 1.
 on neglect or refusal, application to C. C. Pleas, 123, sec. 2.
Appointments by, of town treasurer, when, 106, sec. 6.
 to fill vacancies, 109, sec. 6; 167, sec. 14
 171, sec. 11.
 of agents to perambulate town lines, 110, sec. 2.
 of weighers of beef, 230, sec. 26.
 of enginemen with firewards, 264, sec. 10.
 of engineer and assistant engineers, 267, sec. 1.
 of police officers, 265, sec. 1.
 of watchmen, 267, sec. 1.
 of highway surveyors, when no choice of, 146, sec. 3.
 of collector of taxes, when, 109, sec. 3.
 of an agent for vaccination, when, 275, sec. 1.
Check list to be posted up, 87, sec. 1.
 lodged with town clerk, 87, sec. 1.
 meetings for correction of, 87, sec. 2.
 notice of time and place of meeting to be given, 87, sec. 2.

SELECTMEN. (Continued.)

Check list, names to be erased or inserted, 87, sec. 8.
to be open to examination when corrected, 87, sec. 4.
voters on said list may vote, 88, sec. 5.
person may vote whose name is accidentally omitted, 88, sec. 5.
to be present at the meeting, 88, sec. 6.
names of voters to be checked when vote is received, 88, sec. 9.
Classed towns, duties of, in, 96, sec. 7—12.
penalty for neglect, 97, sec. 14.
Duties of, to warn town meetings, 102, chap. 84.
to be present at opening of town meeting, 88, sec. 6.
to preside at town meeting till moderator chosen, 104, sec. 1.
to provide ballot boxes, 88, sec. 7.
to assist in counting votes, 88, sec. 12.
to enter number of ratable polls on back of list, 89, sec. 18.
fraudulent conduct of, at elections, penalty for, 90, sec. 22, 23.
to limit surveyors and give list of taxes, 145, sec. 4.
to cause unexpended tax to be worked in another district, 145, sec. 11.
to cause roads to be repaired by town, when, 145, sec. 11.
to permit taxes to be expended on private roads, when, 147, sec. 12.
to cause taxes in one district to be worked in another, 147, sec. 17.
when snow encumbering highways, 150, sec. 7.
to license persons to keep gates on highways, when, 152, sec. 8.
to make enrolment, record and return of company, when, 198, sec. 8.
penalty for neglect in such cases, 198, sec. 9.
to provide arms and equipments, how and when, 204, sec. 11.
to hold in trust arms received of State, for what, 206, sec. 1.
to pay persons detached for actual service, 208, sec. 11.
to make inquisition of insanity, 385, sec. 10, 11.
duty of, in relation to spendthrifts, 385, sec. 12, 13.
minors bound out, 390, sec. 7; 159, sec. 6.
paupers. See *Paupers*.
to regulate jury box, 447, sec. 5.
in drawing of jurors, 447, sec. 10.
in paying debts of towns, 505, sec. 4, 5.
in relation to village fire companies and precincts, 258, sec. 1, 2.
to advance money to firewards in certain cases, 258, sec. 24.
to grant license to occupy streets, 263, sec. 8.
to remove persons disturbing religious meetings, 271, sec. 4.
as to licensed houses, 269, sec. 1; 270, sec. 4, 5.
in relation to small pox and pest houses, 275, sec. 6.
shows and theatrical exhibitions, 283, sec. 2.
to issue extents against collectors, 182, sec. 5.
to appraise land damages for railroads, 343, sec. 10.
as to laying out highways. See *Highways*.
in relation to repairs of mills, 299, sec. 4, 5, 6.
Extents may be issued by selectmen, when, 182, sec. 5.
against selectmen, when, 182, sec. 8.
selectmen to indemnify collector on extent, 183, sec. 18.

SELECTMEN. (Continued.)

Extents have no remedy against town, when, 183, sec. 17.
Penalties of, for fraud in elections, 90, sec. 22, 23.
neglect in classed towns, 97, sec. 14.
to warn town meetings, 102, sec. 12.
to assess taxes, 123, sec. 8.
to return inventory to secretary of state, 123, sec. 4.
may be remitted by selectmen, 267, sec. 11; 589, sec. 11.
Taxes, duties to appropriate railroad tax, 113, sec. 4.
to assess taxes seasonably, 121, sec. 8.
5 per cent. to provide for abatements, 121, sec. 4.
to return to State and county treasurers amount of taxes to be paid, and names of collectors, 122, sec. 7.
to deliver list of taxes and warrant to collector, 122, sec. 8.
to take invoice annually, 118, sec. 1.
to return inventory of polls and property to secretary of state, 122, sec. 1, 8.
to issue extent against collector, 122, sec. 5.
SENATORS, meetings for election of, when holden, 90, sec. 1.
votes for, to be returned to secretary of state, 90, sec. 2.
SERVICE of scire facias against endorser of writ, when to be made, 466, sec. 19.
of meane process upon individuals, how long before court, 468, sec. 1.
corporations, how long before court, 468, sec. 1.
of writs of summons, scire facias, review and dower, 468, sec. 2.
of summons when property attached on writ, 468, sec. 3, 4.
how made when defendant not inhabitant of this State, 467, sec. 5, 8, 9.
evidence of, in such case, 467, sec. 6.
manner of, court may order when not prescribed by law, 467, sec. 7.
of writs against towns, 467, sec. 10.
upon corporations, 467, sec. 11.
against county, 468, sec. 12.
SET-OFF, mutual debts between parties may be, 423, sec. 6.
debts must exist at the commencement of the action, 423, sec. 6.
notice of, to be given or plea of general issue, 423, sec. 9.
executions between parties may be by sheriff, 498, sec. 1.
SETTLEMENT OF PAUPERS. See *Paupers*.
SHARES in corporations, how attached, 470, sec. 18.
SHEEP, six exempt from attachment, 469, sec. 18.
impounding of, 308, sec. 1.
taxation of, 113, sec. 8.
marks and brand of, and record, 236, sec. 1.
penalty for altering and defacing mark, 236, sec. 2.
rams running at large, 257, sec. 8.
larceny of, how punished, 549, sec. 13.
SHERIFF AND DEPUTIES, account of all moneys received to be rendered to county treasurer, 456, sec. 29.
Account not to be allowed unless presented in one year, 455, sec. 28.
to be rendered to C. C. Pleas annually, 455, sec. 28.
Accountable for all fines and forfeitures, 455, sec. 24.
for misdoing of deputies, 453, sec. 8.
for defaults and misfeasances of jailor, 454, sec. 16.
Actions on sheriff's bond for default, 465, sec. 19.
declaration, how framed, 455, sec. 21.
judgment on, how rendered, 455, sec. 23.
costs, how recovered, 455, sec. 23.

SHERIFF AND DEPUTIES. (Continued.)

- Actions* for default or misdoings to be case, 460, sec. 18.
- Arrest*, not liable to, on civil process, 477, sec. 5.
- Bond* to be given to respond for misdoing and defaults, 462, sec. 1.
 - how to be approved, 462, sec. 1.
 - to be examined annually, 468, sec. 8.
 - new bond required if original becomes insufficient, 468, sec. 4.
 - actions on, how to be brought, 466, sec. 21.
 - copies of, to be furnished when required, 466, sec. 20.
- Certificate of age* to be filed with secretary, 71, sec. 1.
- Deputies*, how appointed and qualified, 468, sec. 5.
 - deputation and oath to be recorded, 468, sec. 5.
 - special, may be appointed, 468, sec. 6.
 - may be removed at pleasure of sheriff, 468, sec. 7.
 - default and misdoings of, 464, sec. 18.
 - to render an account once a year to sheriff, 466, sec. 28.
 - not to act as attorney, 466, sec. 27.
 - powers to do business when vacancy occurs, 464, sec. 18, 14.
- Duties* to serve all writs and precepts, 468, sec. 9.
 - to act as orler of the court, 468, sec. 9.
 - to be keeper of the county jail, 578, sec. 8.
 - to account for all moneys received, 464, sec. 11.
 - to render an account to C. C. Pleas, 466, sec. 28.
 - to receipt to town clerk for votes received, 91, sec. 4.
 - to return votes to secretary of state, 91, sec. 8.
 - to obey legal process directed to, 462, sec. 2.
 - in relation to fugitives from justice, 568, sec. 10.
 - infliction of capital punishment, 574, sec. 10.
 - proceedings in sale of land for taxes, 181, sec. 7.
- Fees* for personal services, 466, sec. 31.
 - for returning votes, 90, sec. 9.
 - account of, to be rendered by deputies, 466, sec. 28.
 - amount of salary to be retained out of, 466, sec. 30.
 - for service of precepts, 580, sec. 14, 15.
- Indemnity*, entitled to, from county for insufficient jail, 578, sec. 9.
- Jail*, to be keeper of, 578, sec. 8.
 - to appoint deputy jailor, 578, sec. 4.
 - responsible for jailors' acts, 578, sec. 8.
- Liability* of, for escape of prisoners, when, 578, sec. 8.
 - as trustee of funds collected and interest after demand and security given, 466, sec. 38.
- Penalty* for refusing to serve process, 468, sec. 10.
 - for refusing to pay money collected on execution, 464, sec. 11.
 - for not accounting for fines and forfeitures, 466, sec. 26.
 - for not paying over trust funds, 468, sec. 38.
 - for not aiding sheriff in execution of his official duty, 464, sec. 12.
 - for allowing prisoners to escape, 466, sec. 26.
 - for not returning votes, 91, sec. 5; 98, sec. 11.
- Powers* to serve precepts for corporation of which he is a member, 466, sec. 32.
 - to call in aid for execution of his official duty, 464, sec. 12.
 - to preserve the peace, 464, sec. 12.
 - when vacancy occurs, 464, sec. 14.
- Removal* of, for not renewing bond, 468, sec. 4.
 - for not paying judgment recovered for default, 464, sec. 18.

SHERIFFS AND DEPUTIES. (Continued.)

- Removal* of, for refusing to pay over forfeitures and fines, 466, sec. 26.
 - for allowing prisoner to escape, 466, sec. 26.
- Deputies*, 468, sec. 7.
- Salary* of, 588, sec. 13.
 - how paid, 466, sec. 30; 586, sec. 16.
- Taxes*, when collector of non-resident, 180, sec. 3, 4.
 - proceedings in collecting, to be filed with clerk of court, 181, sec. 7.
- See *Service, Attachment*.
- SHINGLES**, survey of, 248, sec. 6.
- SHOWS AND EXHIBITIONS**, showmen not to exhibit without license, 288, sec. 1.
 - dramatic representations without license, forbidden, 288, sec. 2.
 - license to be in writing, and to specify time, 288, sec. 3.
 - to be paid in advance, 288, sec. 4.
 - penalty for exhibiting without license, 288, sec. 5.
 - offenders may be examined before justice, 288, sec. 6.
- SIGN BOARDS**, injury to, forbidden and punished, 262, sec. 3; 264, sec. 17.
- SLANDER**, limitation of actions for, 461, sec. 8.
- SLAUGHTER HOUSES** in compact towns declared nuisances, 274, sec. 8.
- SMALL POX**, vaccination for, provided, 276, sec. 1.
 - persons infected with, may be removed, 276, sec. 2.
 - inoculation forbidden, and penalty, 276, sec. 8.
 - health officers may license, 276, sec. 6.
 - pest houses to be provided for persons diseased with, 276, sec. 4.
 - persons infected with, not to leave pest house without license, 276, sec. 5.
 - if on board of vessels, health officers to be notified, 278, sec. 11.
- SOLICITORS**, office and appointment of, 68, sec. 4.
 - duties of, 68, sec. 5.
 - salaries and fees of, 586, sec. 10, 11.
 - to give bonds, 69, sec. 6.
 - bond, where lodged and kept, 69, sec. 7.
 - bond, when and how put in suit, 69, sec. 8.
 - to render account of money received, 69, sec. 9.
 - to prosecute officers for not returning votes, 98, sec. 1.
 - may file information against towns, 144, sec. 2.
 - when fugitive demanded, duty to investigate grounds of demand, 567, sec. 7.
- SOMERSWORTH** high school. See *Schools*.
- SPECIAL POLICE**. See *Police officers*.
- SPENDTHRIFT**, who are deemed to be, 886, sec. 12.
 - guardian over, to be appointed, when, 886, sec. 18.
 - penalty for selling spirituous liquors to, 268, sec. 12.
- SPIRITUOUS LIQUORS**, penalty for selling to paupers, 268, sec. 12.
 - at religious meetings, 272, sec. 9, 10.
 - for influencing elections by, 89, sec. 19.
 - license to sell may be granted, 270, sec. 5.
 - penalty for selling without license, 270, sec. 6.
- STANDARD** of weights and measures, 249, chap. 113.
- STATE**, western line of, 110, sec. 1.
 - offences against, how punished, 542, chap. 228.
- STATE HOUSE**, who to take charge of, 51, sec. 1.
 - repairs of, how made, 51, sec. 2.
- STATE HOUSE YARD**, penalty for throwing combustibles in, 51, sec. 3.
- STATE LANDS**. See *Lands*.
- STATE LIBRARY**. See *Library*.
- STATE PRISON** to be in Concord, 580, sec. 1.
 - to be under the care of warden, 580, sec. 2.

STATE PRISON. (Continued.)

- Accounts* to be kept and rendered, 581, sec. 6.
vouchers of, to be filed, 581, sec. 6.
Additions and alterations, how made, 580, sec. 5.
Appraisers to be appointed annually, 588, sec. 21.
 to make return, when, 588, sec. 21.
Contracts, how made, 580, sec. 5.
 warden not to be interested in, 581, sec. 6.
Convicts, how committed, 581, sec. 7. 8.
 assaults by, punished, 584, sec. 12. 13.
 rewards and punishments of, 582, sec. 15.
 clothes furnished to, when, 582, sec. 16.
 in custody on civil process, copy of, to be left with warden, 582, sec. 17.
 duty of warden thereon, 582, sec. 18.
 of United States to be received, 582, sec. 14.
 insane sent to asylum, 58, sec. 19.
 when restored, to be recommitted, 58, sec. 20.
Governor and council, duties and powers of, 580, sec. 5.
Guard, military, provided, 580, sec. 5.
Officers, how appointed, 580, sec. 5.
Punishment for assault on officer of prison, 582, sec. 12. 13.
 for ill behavior, 582, sec. 15.
 reward for good behavior, 582, sec. 15.
Regulations, how made, 580, sec. 5.
Report of warden to legislature to be made, 581, sec. 6.
 of appraisers to secretary of state, 582, sec. 21.
Solitary imprisonment, when, 582, sec. 12. 13.
Visitors, board of, who are, 581, sec. 10.
Warden, how chosen, 580, sec. 2.
 to give bond, 580, sec. 3.
 vacancy, how filled, 580, sec. 4.
 duties of, 581, sec. 6.
 power of, to borrow money, 582, sec. 1.
 shall appoint deputy, and be answerable for his acts, 581, sec. 9.
 penalty for assault on warden by convict, 582, sec. 12. 13.
 liable for escapes, when, 582, sec. 11.
 to receive United States convicts, 582, sec. 14.
 may reward or punish convicts, 582, sec. 15.
 to furnish convict with clothes and money, when, 582, sec. 16.
 to detain convict in custody on civil process, 582, sec. 18.
 deputy warden to have power, duties and liabilities of warden, during a vacancy, 581, sec. 9.
 execution against warden, how levied, 582, sec. 19.
 if not paid, warden to be removed, 582, sec. 20.
STATE REPORTER, title of, 451, sec. 1.
 appointment and tenure of office, 451, sec. 2.
 to be sworn by justice of superior court, 451, sec. 3.
 duty to report decisions of superior court, 451, sec. 2.
 to edit and sell reports, 451, sec. 6.
 to pay proceeds to state treasurer, 451, sec. 6.
 salary of, 452, sec. 7.
 judges of the court to furnish correct reports, 451, sec. 4.
 compensation, 451, sec. 5.
STATE TAX, apportionment of, 58, sec. 1.
 warrant for collection of, 64, sec. 2.
STATUTES, construction of, 44, 48, sec. 1-30.
 publication and distribution of, 47, sec. 2; 48, sec. 3. 4. 7.
 original, to be deposited with secretary of state, 47, sec. 1.
 to be present at the polls, 89, sec. 17.
 list of, repealed by revised statutes, 594, sec. 18.
 repealed, not revived by repealing act, 594, sec. 9.
 revised, how cited, 598, sec. 2

STATUTES. (Continued.)

- when to take effect, 598, sec. 1.
 construction of, 598, 594, sec. 2-12.
STAVES, cutlers of, chosen, 108, sec. 7.
See Lumber.
STEALING. *See Larceny.*
STEEL YARDS to be scaled, 250, sec. 8.
See Weights and measures.
STOCKS in public funds taxed, 112, sec. 2.
 in corporations, how taxed, 112, sec. 2.
 in trade, what deemed, and how taxed, 112, sec. 2.
 where taxed, 112, sec. 6.
STOCKHOLDERS. *See Corporations.*
STOLEN GOODS, receiving or concealing, punishment of, 550, sec. 17.
STRAFFORD COUNTY, boundaries of, 74, sec. 2.
STRAY BEASTS and lost goods, finder of, to give notice, 307, sec. 1; 308, sec. 2.
 town clerk to record notice, 308, sec. 2.
 appraisers of, appointed, 308, sec. 4.
 oath and duty of, 308, sec. 5.
 expenses and charges adjusted by, 308, sec. 8.
 penalty for neglect to give notice, 308, sec. 10.
 when beasts not to be taken up, 308, sec. 12.
 fees and costs, 308, sec. 12.
 owner entitled to beasts on paying expenses, 308, sec. 7.
 when liable, if beasts die, 308, sec. 9.
STUDENTS not liable to taxation where residing for education, 115, sec. 2.
STUD HORSES, how taxed, 118, sec. 19.
 owner to give security for taxes, 118, sec. 19.
 forfeiture, if security not given, 118, sec. 20.
SUBMISSIONS before a justice. *See Reference of disputes.*
SUBORNATION of perjury, how punished, 555, sec. 2.
 attempt to procure, 552, sec. 1.
SUBPOENA, form of, 484, sec. 2.
 by whom issued, 485, sec. 2-5.
SUFFRAGE. *See Elections.*
SUITS by and against counties, how brought, 79, sec. 3.
 on bonds of county treasurer, 81, sec. 2.
See Actions.
SULLIVAN COUNTY, boundaries of, 74, sec. 6.
SUMMONS, service of writ of, 466, sec. 2.
 when goods attached, to be left, 466, sec. 3.
 what to contain, 466, sec. 4.
 form of writ of, 464, sec. 13.
 when property attached, form, 462, sec. 11.
 for jury, by coroner, form of, 565, sec. 2.
 for witnesses, 484, sec. 2.
 by whom issued, 485, sec. 3-5.
SUNDAY meetings, penalty for disturbing, 271, sec. 8.
 gaming near meeting-houses not allowed, 272, sec. 11.
 penalty for selling liquor within two miles of meeting, 272, sec. 10.
 secular business to the disturbance of others, forbidden, 271, sec. 1.
SUPERIOR COURT. *See Courts.*
SURPLUS REVENUE, 54, chap. 8.
SURETIES to keep the peace, on complaint, 558, sec. 2.
 for police offences, 268, sec. 4.
 for disturbing religious meetings, 272, sec. 8.
SURPLUS CAPITAL in banks to be taxed, where, 115, sec. 4.
SURVEYORS OF HIGHWAYS, choice of, 106, sec. 7; 146, sec. 3.
 districts to be limited, 146, sec. 4.
 to notify persons of time and place to work taxes, 146, sec. 5.
 in emergencies, to attend forthwith, 146, sec. 6.
 to levy by distress in case of neglect or refusal, 146, sec. 7.
 may order delinquent, on excuse, to work at some other time, 146, sec. 8.

SURVEYORS OF HIGHWAYS. (Continued.)

- to render account and pay over balance, 146, sec. 9.
- neglect to render account, proceedings, 146, sec. 10.
- to purchase materials for repairs of highway, 147, sec. 15.
- to remove gravel, sand or rocks, 147, sec. 16.
- not to make uncovered trench opposite dwelling house, 147, sec. 16.
- tax not needed in a district, may be worked out in another, 147, sec. 17.
- to allow for time going and returning from work, 147, sec. 18.
- liable for damages occasioned by neglect, 149, sec. 2.
- powers and duties of, when snow encumbering highway, 150, sec. 7.
- to remove encumbrances in highways, 151, sec. 1.
- in such cases, to give notice to owner to remove, 151, sec. 2.
- to make complaint to justices of the peace, 151, sec. 2.
- justice to give notice to owner, 151, sec. 3.
- after hearing, may on his own view order removal or sale sufficient to pay costs and charges, to be estimated by him, 151, sec. 3.
- sale to be made by surveyor, 151, sec. 4.
- SWEARING**, affirmation instead of, 45, sec. 20.
- ceremony of, 46, sec. 10.
- profane, punishable, 50, sec. 9.
- SWORN** includes *affirmed*, 45, sec. 20.

TAXES. Abatement, assessment and collection of, 113, title 8.

- Abatement* by selectmen, 128, sec. 1.
- by court of common pleas, 128, sec. 2.
- when assessed by mistake, 117, sec. 17.
- assessment of five per cent. for, 121, sec. 4.
- Advertisement* of sales, forms of, and how posted, 127, sec. 6-8.

Animals, taxation of, 118, sec. 3.

Appraisal of property, 120, sec. 1.

owned in severalty, 120, sec. 2.

deduction from, when made, 120, sec. 1, 5.

Arrests for delinquency, 126, sec. 8.

of non-residents, 126, sec. 10.

fees for, 126, sec. 11.

and commitment to jail, 126, sec. 9.

Assessment to be made on all the inhabitants

and property, 117, sec. 18.

mode of making, 121, sec. 1.

county, town, state and school included in

one, 120, sec. 5.

record of, to be made by selectmen, 121,

sec. 6.

proprietors of unincorporated places, how

assessed, 120, sec. 1, 2.

Banks, how taxed, 118, sec. 8.

surplus capital on hand, where taxed, 115,

sec. 4.

Carriages, when taxed, 118, sec. 3.

Collection of, 124, sec. 1.

residents to be notified, 124, sec. 2.

corporations to be notified, 124, sec. 3.

by distress, 124, sec. 4.

by arrest, 126, sec. 8.

proceedings upon distress, 124, sec. 6, 7.

commitment and proceedings, 126, sec. 9.

in case of removal from town, 125, sec. 10.

real estate holden for, 125, sec. 13.

real and personal of corporations liable,

126, sec. 12.

sale of, 126, sec. 13, 14.

Collection of non-resident, 127, sec. 1. See *Taxes*,

Collector.

lists of, to be given collector before May

30, 127, sec. 2.

left with secretary of state, 127, sec. 3.

suspended in certain cases, 117, sec. 16,

17.

in unincorporated places, 120, sec. 1.

TAXES. (Continued.)

Collection of non-resident, by sheriffs, 130, sec. 8.

Collector, powers of, to execute warrant, 124, sec. 1.

shall give notice to every person taxed, 124, sec. 2.

shall notify cashier of corporations, 124, sec. 3.

may distrain goods and chattels, 124, sec. 4.

proceedings in advertising and selling property distrained, 124, sec. 6.

account of keeping, sale and fees to be given delinquent, by collector, 126, sec. 7.

may arrest body for non-payment of, 126, sec. 8.

may commit to jail, 126, sec. 9.

non-resident and his property liable, where found, 126, sec. 10.

fees of collector, 126, sec. 11.

notice of distress for taxes, 126, sec. 14.

powers and duties in sales, 126, sec. 15.

liability limited, but for official misconduct, 126, sec. 16.

may appoint deputies, 126, sec. 19.

of non-resident taxes, list to be furnished before May 30th, 127, sec. 2.

shall advertise list of non-resident lands, 127, sec. 6-8.

shall deliver town clerk account of sales and proceedings, 128, sec. 10, 16.

deed by, and form of, 129, sec. 16, 17.

fees of, 129, sec. 19.

illegal, penalty for, 130, sec. 21.

redemption of, 129, sec. 15.

extent against, for neglect, 132, sec. 4, 5.

highway, may be paid in labor, 129, sec. 18.

Contribution of inhabitants in extent, 133, sec. 13.

Corporations, stock in, taxed, and where, 118, sec. 3; 115, sec. 4.

stock in banks, where taxed, 115, sec. 4.

surplus capital to be taxed, 118, sec. 8.

deposits in, where taxed, 115, sec. 4.

railroads, how and where taxed, 118, sec. 2.

tax, how distributed, 114, sec. 5.

officers of, to give in ratable property, 119, sec. 7.

penalty for neglect, 119, sec. 10.

persons taxed for, shall have lien, 118, sec. 18.

distress on, 124, sec. 4.

real estate holden for, 126, sec. 13.

franchisees of, holden, 126, sec. 12.

County, how granted and collected, 84, sec. 2, 4.

Deputy collectors of, may be appointed, 126, sec. 19.

Discount on, may be voted by town, 126, sec. 17.

Distress for taxes of residents, 124, sec. 4.

of non-residents, 126, sec. 10.

of railroads, 114, sec. 7.

property exempt from, 124, sec. 5.

fees for, 126, sec. 11.

notices on account of taxes and costs, 126, sec. 6, 7.

proceedings of collector in selling on distress, 126, sec. 15.

Deed of non-resident land sold for taxes, 129, sec. 16, 17.

Deceased persons, property of, how taxed, 117, sec. 14.

Doomage, when, for neglect to furnish statement, 119, sec. 5.

in case of fraud, 119, sec. 6.

of corporations, 119, sec. 8.

Exemption from taxation, what polls, 115, sec. 2.

from distress for taxes, 124, sec. 5.

Extents to be issued by state, county and town

treasurers, 131, sec. 1.

against towns and inhabitants, 132, sec. 2, 7.

TAXES. (Continued.)

- Excises* against railroads for non-payment of taxes, 114, sec. 7.
- selectmen for neglect to assess, 123, sec. 8, 6.
- collector for neglect to collect, 123, sec. 4, 6.
- sale of property on, 123, sec. 8, 9.
- directed to sheriff or deputy, 123, sec. 10.
- to include fees, 123, sec. 12.
- injury to individuals by extent, remedy for, 123, sec. 12.
- towns, remedy for, 123, sec. 14.
- selectmen, remedy of, against collector, 123, sec. 15.
- none against town, when issued for their own default, 123, sec. 17.
- Fishing vessels*, where taxed, 116, sec. 7.
- Highway*. See *Highways*.
- Invites* to be taken in April, 118, sec. 1.
- mode of taking, 118, sec. 2.
- notice by assessors, to receive account of polls and property, 118, sec. 2, 3.
- inhabitants, duty of, to exhibit ratable property, 119, sec. 4.
- officers of corporations to exhibit account of ratable property, 119, sec. 7.
- manner of making invoice, 120, sec. 1, 3.
- property owned by several persons, how invoiced, 120, sec. 3, 4.
- record of, to be made by selectmen, 121, sec. 6.
- by town clerk, 121, sec. 6.
- open to inspection, 121, sec. 6.
- of school tax, 174, sec. 10.
- Inventories* of polls and estates, 122, chap. 46.
- List* of taxes to be furnished collector, 122, sec. 8.
- Lien* for, on property for one year, 126, sec. 12.
- Lumber*, wood, bark, &c., how taxed, 116, sec. 8.
- Money* on hand or deposited in banks, how taxed, 114, sec. 8.
- Manufacturing* corporations, property of, where taxed, 118, sec. 5.
- Non-residents*, property of, where taxed, 116, sec. 6.
- liability of, on removal from town, 116, sec. 3.
- collection of. See *Collector, Taxes*.
- redemption of, after sale, 120, sec. 15.
- highway tax may be paid in labor, 120, sec. 18.
- Notice* of, to be given to all persons taxed, 124, sec. 2.
- corporations taxed, 124, sec. 3.
- distress of property, 126, sec. 14.
- non-resident taxes, 127, sec. 3.
- Polls*, how valued in making assessment, 121, sec. 1.
- where and how taxed, 116, sec. 1, 3.
- exempt from taxation, when, 116, sec. 2.
- Privileged* debts, 414, sec. 18.
- Property* liable to taxation, 118, sec. 2, 3, 4.
- stock in public funds, 118, sec. 3.
- where to be taxed, 116, chap. 42.
- to whom taxed, 116, sec. 9.
- of corporations, where and to whom taxed, 116, sec. 4, 6.
- of deceased persons, 117, sec. 14.
- of wards and trust funds, 117, sec. 15.
- animals and stock in trade, 118, sec. 6.
- stock in corporations and surplus capital, 116, sec. 4.
- liable to be sold for taxes, 117, sec. 11.
- Railroads*, how assessed and paid, 118, sec. 4.
- how assigned and distributed, 114, sec. 5.
- shares, account of, to be returned to state treasurer, 114, sec. 6.
- state treasurer to issue extent for taxes not paid, 114, sec. 7.
- Real estate*, what is deemed to be, for taxation, 118, sec. 2.
- where to be taxed, 116, sec. 9.
- owned by several, how taxed, 120, sec. 2.
- Residents*, property of, how taxed, 116, sec. 1.

TAXES. (Continued.)

- Residents*, taxes of, how collected, 124, sec. 1, 2, 8.
- Sale* of property of residents for taxes, 124, sec. 4.
- real estate of residents, 126, sec. 13.
- non-residents, 126, sec. 9.
- corporations, 126, sec. 12.
- franchisees of corporations, 126, sec. 12.
- School* and school house. See *Schools*.
- Selectmen*, their duty to assess taxes seasonably, 121, sec. 3.
- to take invoice annually in April, 118, sec. 1.
- may assess 5 per cent. to provide for abatements, 121, sec. 4.
- to record invoice, 121, sec. 6.
- to return amount of taxes to state and county treasurer, 122, sec. 7.
- liable to extent for not assessing tax, 123, sec. 8.
- their remedy against collector, 123, sec. 15.
- none against town on account of distress, when, 123, sec. 17.
- to indemnify collector in certain cases, 123, sec. 16.
- to return inventory of polls and estate to secretary of state, 122, chap. 46.
- Sheriff*, collector of taxes in unincorporated places, 120, sec. 3.
- State tax*, amount of, to be returned to treasurer, 122, sec. 7.
- Stock* in trade, what deemed, and how taxed, 118, sec. 3.
- where taxed, 116, sec. 6.
- in public funds, taxed, 118, sec. 3.
- in incorporations, taxed, 118, sec. 8.
- Students* not taxable, when, 116, sec. 2.
- Stud horses*, how taxed, 118, sec. 19.
- surety to be given for taxes of, 118, sec. 19, 20.
- Unincorporated* places, taxes of, how assessed, 120, sec. 1.
- proprietors of, how assessed, 120, sec. 2.
- Unimproved* lands, how taxed, 117, sec. 13.
- exempt from taxation by vote of town, 121, sec. 2.
- Warrants* issued to collector, 122, sec. 8.
- powers to execute, 124, sec. 1.
- TELEGRAPH**, punishment for injury to wires and fixtures, 548, sec. 4.
- TENANCY AT WILL**, what deemed, 534, sec. 5.
- how terminated, 538, sec. 1; 534, sec. 6.
- TENANTS**. See *Landlord and Tenant*.
- in fee tail may be conveyed by deed, 287, sec. 1.
- in common, who are to be deemed, 287, sec. 2; 288, sec. 3.
- joint, or in common, duty of, to repair mills, 288, sec. 1.
- TENDER**, when may be made to plaintiff's attorney, 452, sec. 1.
- TENURE OF OFFICE** to be for five years in certain cases, 71, sec. 8.
- of town officers, 106, sec. 8.
- how affected by revised statutes, 504, sec. 8.
- TERMS** of superior court, 425, sec. 14.
- of court of common pleas, 498, sec. 33.
- of court of probate, 503, chap. 168.
- for years, levies on, how made, 503, sec. 12.
- TERRITORY** included in *State and United States*, 44, sec. 3.
- THEFT**. See *Larceny*.
- TIMBER**. See *Floating Timber*.
- injury to, penalty, 535, sec. 1.
- trees, trespass on, 536, sec. 8.
- appraisal of, by selectmen, 120, sec. 2.
- sale of, by licensee to administrator, 418, sec. 6.
- TIME**, computation of, 45, sec. 25.
- when penalty for neglect, how reckoned, 530, sec. 8.
- TOLLS**, rights to receive, how attached, 471, sec. 15.
- sold on execution, 490, sec. 13.

TOLLS. (*Continued.*)

- purchase to receive all tolls, 498, sec. 14.
- corporation may redeem, 498, sec. 15.
- for grinding grain, 298, sec. 10.
- penalty for taking too much, 800, sec. 11.

TOMBS, defacing and injury to, penalty, 560, sec. 11.**TOOLS** of trade, exempt from attachment, to what amount, 469, sec. 2.

distress for taxes, 124, sec. 6.

TOWNS are corporations, 100, sec. 1.

parishes incorporated have the powers of towns, 100, sec. 2.

may make by-laws, 100, sec. 6, 7, 8; 286, sec. 6.

contracts, 100, sec. 8.

assess taxes, 100, sec. 4.

raise ministerial taxes, when, 100, sec. 5.

establish free libraries, 101, sec. 1, 2.

receive gifts for same, 101, sec. 8.

offer rewards for apprehension of criminals, 562, sec. 1.

to provide pounds, 304, sec. 14.

penalty for neglect, 304, sec. 14.

lines of, to be perambulated, 110, sec. 2.

liable for surplus revenue, 54, sec. 1.

injuries by alteration of highways, 186, sec. 18.

literary fund, rights of, to proportionate part, 194, sec. 4.

proprietary records in, where kept, 363, sec. 17.

executions against, how levied and collected, 506, chap. 211.

extent against, for not assessing taxes, 182, sec. 2.

remedy of, against collectors and selectmen, 183, sec. 14.

liable for injury from defect of highways, 149, sec. 1.

when not liable, 149, sec. 3, 4, 5, 7.

remedy for, against surveyor, when, 149, sec. 2.

may appoint agents for vaccination, 275, sec. 1.

officers of, chosen, 106, chap. 86.

town offices, vacancies in, 106, chap. 86.

writs, service of, upon towns, how long before court, 498, sec. 1.

made, 467, sec. 10.

entitled to N. H. Reports, 66, sec. 5.

laws, 48, sec. 8.

journals, 49, sec. 7.

laws of United States, 48, sec. 5.

TOWN CLERKS, choice of, 106, sec. 1.

duties of, to administer oath to town officers, 107, sec. 1.

make record of oaths, 108, sec. 8.

votes, 106, sec. 1; 86, sec. 15.

notices of strays, 808, sec. 2.

invoices and taxes, 121, sec. 6.

births, deaths and marriages, 284, sec. 1.

transfers of shares in corporations, 315, sec. 9.

drawing jurors, 448, sec. 18.

mortgages of personal property, 286, sec. 15.

licenses to sell liquor, 370, sec. 7.

seal of weights and measures, 260, sec. 11.

highways laid out by selectmen, 186, sec. 15.

assessments of damages by selectmen, 187, sec. 19.

license for erection of gates on highways, 162, sec. 8.

penalty for making false records, 557, sec. 18.

certificate, 557, sec. 18.

to file copy of contract to secure lien, 286, sec. 5.

to furnish certificate of publishment, 376, sec. 5.

to certify time of receiving copy of writ, 469, sec. 4.

TOWN CLERKS. (*Continued.*)

to keep index of attachments, 469, sec. 5.

alphabetical index of mortgages of personal property, 286, sec. 15.

to give notice to selectmen of time and place of drawing jurors, 447, sec. 9.

to post up like notice in some public place in town, 447, sec. 9.

to draw jurors in presence of selectmen, 447, sec. 10.

to notify jurors, 448, sec. 14.

to certify names of persons selected as jurors, 448, sec. 15.

penalty for neglect, 448, sec. 17.

appointment of, by selectmen, 108, sec. 6.

in classed towns, 97, sec. 12.

when to preside in town meeting, 104, sec. 1.

shall assist in sorting and counting the votes, 88, sec. 12.

check the names of voters, 88, sec. 9.

have statute laws present at the polls, 89, sec. 17.

return copy of votes for governor, councillor and senator to secretary of state, 90, sec. 2.

deliver such copy to secretary of state or sheriff, when, 91, sec. 3.

transmit votes for members of congress to secretary of state or sheriff, when, 92, sec. 7.

penalty for neglect, 93, sec. 11.

transmit votes for electors, 94, sec. 2.

penalty for neglect, 94, sec. 10.

give certificate of election of representatives to the general court, 96, sec. 2.

certify on margin of same in certain cases, 96, sec. 4.

may be required to amend return in certain cases, 98, sec. 4.

punishment for neglect of, in such cases, 98, sec. 5.

shall return votes of election of county officers, 80, sec. 4.

to whom directed, 80, sec. 4.

penalty for neglect, 80, sec. 7.

fees for filing copy of writ, 469, sec. 6.

record of births, marriages and deaths, 284, sec. 1, 2.

publishment of intention of marriage, 376, sec. 5.

in general, 591, sec. 18.

TOWN MEETINGS. See *Elections.*

when holden, 102, sec. 1.

how warned, 102, sec. 1—11.

justice may call, when, 103, sec. 9.

government of, 104, sec. 3, 4, 6.

disorderly conduct in, how corrected, 105, sec. 7.

who to preside in, 104, sec. 1—3.

moderator of. See *Moderator.*

when new moderator to be chosen, 104, sec. 5.

TOWN OFFICERS, how chosen, 106, chap. 86.

to be always sworn, 107, sec. 1.

oath, form of, 107, sec. 2.

to be recorded, 108, sec. 8.

penalty for not serving, 107, sec. 3; 108, sec. 6.

who exempted, 108, sec. 9.

to be notified, 107, sec. 3, 4.

tenure of office, 108, sec. 8.

vacancies, how filled, 108, sec. 6.

TRAVELLERS turning to the right, law of, 155, sec. 1.

penalty for violation of, 155, sec. 2.

complaint for, limited, 155, sec. 3.

action for damages by reason of violation of, limited, 155, sec. 4.

TREASON against the State, how punished, 642, sec. 1.

misprision of, how punished, 642, sec. 2.

limitation of indictment for, 642, sec. 3.

TREASURER, COUNTY, choice of, 80, sec. 1.

to give bonds, 81, sec. 1.

suit on, how brought, 81, sec. 2.

to receive and disburse money 82, sec. 3.

TREASURER, COUNTY. (Continued.)

vouchers for paying officers of court, 53, sec. 4, 5.
 to render an account to C. C. Pleas, 53, sec. 6, 7.
 to deliver annually to C. C. Pleas statement of the treasury, 54, sec. 1.
 to issue warrant for assessing taxes, 54, sec. 4.
 extent for collecting taxes, 181, sec. 1.
 to assess taxes in unincorporated places, 180, sec. 1.
 may borrow money in certain cases, 54, sec. 6.
 to pay executions against county, 54, sec. 5.
 to sell county property, 79, sec. 2.
 vacancy, how filled, 51, sec. 11.
 salary of, 538, sec. 14.
 may be removed for official misconduct, 51, sec. 10.
 to advertise tax for making highway, not in any town, 148, sec. 4.
 in such cases, to sell land, if tax not paid, 148, sec. 6.
 to execute deed of land sold, 148, sec. 7.

TREASURER OF TOWNS, choice of, 103, sec. 4, 6.

bond of, 106, sec. 5.
 selectmen to be, when, 106, sec. 6.
 may be appointed, when, 109, sec. 7.
 extent for taxes, issued by, 131, sec. 1.
TREASURER, STATE, how chosen, 57, sec. 1.
 shall give bond, 57, sec. 2.
 shall keep a correct account of receipts and payments, 57, sec. 3.
 accounts of, how kept, 57, sec. 4.
 shall make payment in what manner, 57, sec. 5.
 may effect loans, when, and on what terms, 57, sec. 6.
 office to be declared vacant, when, 57, sec. 7.
 in case of death, resignation or removal of, commissioner to be appointed, 57, sec. 8.
 for delinquency of, bond to be put in suit, 58, sec. 9.
 to issue extent for collection of taxes, 181, sec. 1.
 to borrow money to refund surplus revenue, 55, sec. 7.
 to issue extent against railroads for non-payment of taxes, 114, sec. 7.
 to be one of commissioners of literary fund, 194, sec. 2.
 duty to distribute literary fund, 194, sec. 4.
 issue warrant for State tax, 54, sec. 2.
 assess taxes in unincorporated places, 180, sec. 1.
 issue extents against towns and collectors, 181, sec. 1.
 to keep standard set of weights and measures, 249, sec. 1.
 salary of, 535, sec. 3.

TREASURER OF SAVINGS BANKS, duties of, 332, sec. 63, 67.

TREES, injury to, penalty, 526, sec. 1.
 ornamental, malicious injury to, how punished, 550, sec. 19.
 cutting and destroying, 552, sec. 28, 29.

TRESPASS on trees, timber, wood, or under-wood, penalty, 526, sec. 1.

by altering marked logs or cutting into lumber, penalty, 526, sec. 2.
 by leaving gates open or throwing down bars or fence, penalty, 526, sec. 3.
 by carrying away stone or earth, 526, sec. 4.
 mode of proceeding in such cases, 526, sec. 5.
 on public lands, penalty, 526, sec. 6.
 no title gained by, 526, sec. 7.
 on pine or timber lands, penalty, 526, sec. 8.
 limitation of action for, 526, sec. 9.
 committed on ornamental trees, punishment of, 550, sec. 19.
 upon garden, orchards or fields, 552, sec. 28, 29.
 by letting cattle into fields of another, 552, sec. 30.

TRUSTEE PROCESS.

Action, in what cases will lie, 527, sec. 1.
 not lie, 527, sec. 1.
 where to be brought, 527, sec. 2.
 will lie against corporation, 530, sec. 23.
 may be brought before justice, 532, sec. 39.
Administrator may become party on decease of trustee, 530, sec. 24.
Bond to be filed by plaintiff, when, 532, sec. 41.
Collusion between trustee and principal, effect of, 531, sec. 32.
Commissioner, when appointed, 530, sec. 25.
Continuance, when allowed, 528, sec. 6.
Corporation liable as trustee, 530, sec. 23.
disclosures of, how made, 530, sec. 23.
Costs taxed against trustee upon trial by jury, when, 531, sec. 29.
 in case of fraud, 532, sec. 34.
 for trustee in trial by jury, when, 531, sec. 29.
 of trustee to be same as of witness, 532, sec. 42.
Death of trustee not to abate process, 530, sec. 24.
Debtor, competent witness on trial before jury, 531, sec. 23.
 refusing to appear, penalty, 530, sec. 20.
Defendant, service on, how made, 527, sec. 3.
 property of, may be attached on writ, 527, sec. 3.
Discharge of trustee upon payment, 532, sec. 38.
Disclosures, how made, 528, sec. 7.
 to be several, 532, sec. 36.
 not evidence on criminal trial, except for perjury, 530, sec. 21.
 of corporation, how made, 530, sec. 23.
 may be made by administrator, when, 530, sec. 24.
 taken by commissioner, 530, sec. 25.
 justice, trustee about to leave the State, 530, sec. 26; 531, sec. 27.
 of grounds of claim to real estate, 532, sec. 28.
Evidence of claim of third person may be taken, 530, sec. 22.
 disclosure not, when, 530, sec. 21.
Execution to issue, how, 532, sec. 37.
Executor may become party on death of trustee, 530, sec. 24.
Family of debtor, earnings of, not liable, 532, sec. 9.
Fees of trustees to be same as of witness, 532, sec. 42.
Fraud between trustee and principal, effect of, 531, sec. 32.
Judgment, how rendered, 531, sec. 30.
 against trustee for costs, when, 532, sec. 33, 34.
 where several defendants, 532, sec. 36.
 execution on, to issue, how, 532, sec. 37.
Justice to take disclosure, trustee leaving the State, 530, sec. 26; 531, sec. 27.
 trustee process may be brought before, 532, sec. 39.
 proceedings thereon, 532, sec. 39.
 trustee to file bond, approved by, when, 532, sec. 41.
Liability for neglect to deliver specific articles, 529, sec. 14.
 refusal to deliver note, order, bond, &c., 528, sec. 17.
 goods, chattels, rights and credits, 532, sec. 8, 11.
 debt not yet due, 528, sec. 10.
 goods contracted for, 528, sec. 12.
 note, order, receipt, bill or bond, 529, sec. 15.
 property subject to pledge, lien or mortgage, 529, sec. 16.
 negotiable note, 530, sec. 13.
Mortgage, property under, how liable, 532, sec. 13.

TRUSTEE PROCESS. (Continued.)

Names, additional, may be inserted in writ, 527, sec. 4.
Notes, orders, receipts, &c., trustee liable for, 529, sec. 15.
 trustee refusing to deliver, to be charged, 529, sec. 17.
 negotiable, debtor to answer interrogatories relating to, 529, sec. 18.
 not *bona fide* transferred, trustee chargeable, 530, sec. 19.
Real estate, trustee to disclose claim to, 532, sec. 33.
Receiver when appointed, 529, sec. 16.
Service, how made, 527, sec. 8.
Specific articles, liable for, 528, sec. 12.
 creditor, agent to receive, 528, sec. 12.
 levy upon, how made, 528, sec. 12.
 trustee refusing to expose, liability, 529, sec. 14.
Trial by jury or disclosure at election of plaintiff, 528, sec. 7.
 may be had after disclosure, 531, sec. 28.
 issue for, to be framed, 531, sec. 28.
Trustee, service of writ upon, 527, sec. 3.
 new names inserted, when, 527, sec. 4.
 liable upon default, 527, sec. 5.
 unable to attend, continuance granted, 528, sec. 6.
 liability of, how tried, 528, sec. 7.
 who are liable as, 528, sec. 11.
 not to be charged for earnings of wife or family of debtor, 528, sec. 9.
 execution against, to be suspended, when, 528, sec. 10.
 liable for specific articles, 528, sec. 12.
 proceedings in such case, 528, sec. 12.
 death of, not to abate process, 530, sec. 24.
 corporation liable as, 530, sec. 23.
 commissioner to take disclosure of, when, 530, sec. 25.
 leaving the State, justice to take disclosure, 530, sec. 26; 531, sec. 27.
 may appear for principal, when, 531, sec. 31.
 not to appear for principal, when, 531, sec. 32.
 to disclose title to land, 532, sec. 33.
 refusing to expose goods, liability for, 529, sec. 14.
 not guilty of fraud, entitled to costs, 532, sec. 35.
 in justice action, living out of county, plaintiff to file bond, 533, sec. 41.
 writ in, how directed, 533, sec. 40.
 fees of, same as of witness, 533, sec. 42.
Wife and family of debtor, earnings of, not liable, 528, sec. 9.
Writ, form of, 466, sec. 15.
 to be attachment and summons, 527, sec. 3.
 service of, 527, sec. 8.
 new names may be inserted in, 527, sec. 4.
 justice, how directed, trustee living out of county, 533, sec. 40.
TRUSTEES of asylum for insane, how appointed and duties, 56, chap. 9.
 of churches, who are, 369, sec. 8, 13.
 appointed by superior court to property of married women, in trust, 383, sec. 18.
TRUSTEES of estates to give bond, 426, sec. 1.
 trustee refusing to, considered as declining, 426, sec. 3.
 conditions of bond, 426, sec. 1.
 trustee need not give bond, when, 426, sec. 2.
 may resign trust, upon written request, 426, sec. 4.
 judge may appoint new trustee, when, 426, sec. 5.
 estate vests in trustee, when and how, 426, sec. 6.
 trustee may be removed, when, 426, sec. 7.
 so appointed, to demand and receive the estate and manage the same, 427, sec. 8.
 judge may authorize sale of property, 427, sec. 9.

TRUSTEES. (Continued.)

control and direct its management, 427, sec. 9.
 authorize administrators of trustee to convey estate holden in trust, 427, sec. 10.
TRUSTS not to be created in lands, except in writing, 290, sec. 13.
 except resulting by implication of law, 290, sec. 13.
UNDERWOOD, injury to, penalty, 525, sec. 1.
UNIMPROVED LANDS, how taxed, 117, sec. 13.
 may be exempted from taxation, 121, sec. 2.
UNINCORPORATED PLACES, rights and duties of, 111, chap. 40.
 rights in surplus revenue, 55, sec. 5.
 literary fund, 194, sec. 6, 8.
 property in, how taxed, 116, sec. 10.
 taxes to be assessed by State and county treasurer, when, 180, sec. 1, 2.
 how collected, 180, sec. 3, 4.
 sales of land in, how made, 181, sec. 5.
 lists of, how filed, 131, sec. 7.
UNITED STATES includes, what, 44, sec. 8.
VACANCIES in town offices, how filled, 109, sec. 6.
 county offices, how filled, 81, sec. 11.
 may be anticipated and filled by governor and council, provided, 72, chap. 16.
VACCINATION, agent for, may be appointed, 275, sec. 1.
VAGRANTS and disorderly persons, punishment of, 268, sec. 2.
VENIRES, how issued, served and returned, 447, sec. 6, 7, 8.
 penalty for neglect, 448, sec. 17.
VESSELS. See *Masters of vessels*.
VIEWS, when allowed and on what terms, 484, sec. 1.
VILLAGE FIRE COMPANIES. See *Fire companies*.
VOLUNTARY ASSOCIATION. See *Associations, Corporate*.
VOTERS, rights and qualifications of, 85, sec. 1.
 who are not legal, 85, sec. 1.
 who shall be considered paupers, 85, sec. 2.
 a legal voter not to be deprived of his right to vote by reason of abatement of taxes, provided, 86, sec. 3.
 not by reason of having received assistance, provided, 86, sec. 4.
 aliens not entitled to vote, 86, sec. 5.
 words, "dwells and has his home," defined, 86, sec. 6.
 residence of, not lost by temporary absence, 86, sec. 7.
 election of residence for purpose of voting, defined, 86, sec. 8.
 students, where to vote, 86, sec. 9.
 list of, to be posted up and lodged with town clerk, 87, sec. 1.
 selectmen to be in session to correct list of, 87, sec. 2.
 to give notice of such session, 87, sec. 2.
 erasure and insertion of names of, on list, 87, sec. 3.
 list of, to be open for examination, 87, sec. 4.
 not to vote, unless names are on the list, 88, sec. 5.
 allowed to vote if names accidentally omitted, 88, sec. 5.
 list of, to be present at town meeting, 88, sec. 6.
 how to deliver their ballots, 88, sec. 9.
 names of, to be checked, 88, sec. 9.
 ratable polls to be entered on back of list of, 89, sec. 13.
 attempts to improperly influence voters, penalty, 89, sec. 20.
 improperly voting, penalty, 89, sec. 21.
VOTES. See *Elections, Town Clerk*.
 blank pieces of paper not counted as, 88, sec. 8, 11.

VOTERS. (*Continued.*)

return of, for county officers, how made, 80, sec. 3, 4.
penalty for neglect to return, 80, sec. 7.
clerk of court to inform attorney general of neglect, 81, sec. 8.

VOTING, PROXY, by stockholders in corporations, 818, sec. 14, 15, 16.

in banks, 831, sec. 61.

VOTING at elections. See Elections.**WAGERS, penalty for, on elections, 98, sec. 8.**

wager or bet, what is, 98, sec. 7.
money or property lost on, may be recovered back, 99, sec. 8.

WANTON and lascivious conduct, 559, sec. 1, 2, 3, 4.**WARDEN. See State Prison.****WARD, property of, how and to whom taxed, 117, sec. 15; 175, sec. 8.**

See Guardian and Ward.

WARRANTS for State tax, how issued, 64, sec. 2, 3.

for collection of taxes, 123, sec. 8.
in unincorporated places, 130, sec. 2.
to call school district meetings, 189, sec. 1, 2, 3; 194, sec. 12.
to be granted upon complaint and oath, 564, sec. 10.

search, how granted, 565, sec. 12, 13.

WASTE, administrator liable for, 405, sec. 15.

for not redeeming property, 407, sec. 11.
for fraud in sale, 418, sec. 12.

injunction to stay, may be issued, 434, sec. 10.

widow liable for, in dower, 420, sec. 7.

See Trespass and Waste, 535.

WATCHMAN, appointment, duties and compensation of, 267, sec. 1.

powers, duties and qualifications, same as of police officers, 267, sec. 2.
may arrest persons committing crimes or strolling about the streets, 267, sec. 8; 269, sec. 5.

may commit persons so arrested, 267, sec. 4.

WATER COURSE, how made, 147, sec. 16.**WAYS. See Highways.****WEIGHERS OF BEEF, appointment, duties and fees of, 230, sec. 24, 27, 28.**

penalty for weighing contrary to statute, 230, sec. 29.

WEIGHT, standard of bread, oats and potatoes, 248, chap. 112.

bread and biscuit to be sold by weight, 248, sec. 4.

oats and potatoes may be measured by agreement, 248, sec. 8.

WEIGHTS AND MEASURES, standard set for State, where and how kept, 249, sec. 1.

county sealer of, to be appointed and sworn, 249, sec. 2.

shall procure full set of, 249, sec. 3.

prove them by State standard, 249, sec. 3.

repeated once in three years, 249, sec. 3.

prove all weights and measures brought him by county standard, 249, sec. 3.

fees of, 249, sec. 3.

shall lodge description of his seal in the office of secretary of state, 250, sec. 11.

town sealer, appointment of, 103, sec. 7; 250, sec. 6.

selectmen, if town not provided with, to procure full set, 250, sec. 4.

set shall be tried and proved by county set, 250, sec. 4.

to be repeated every three years, 250, sec. 4.

town sealer shall try and prove all brought him for that purpose by town standard, 250, sec. 6.

town sealer shall seal such as conform thereto, 250, sec. 6.

fees of, 250, sec. 6.

seal of, prescribed by town and recorded in town records, 250, 251, sec. 11.

charcoal, size of measure, 250, sec. 7.

WEIGHTS AND MEASURES. (*Continued.*)

meal, fruit and things sold by heaped measure, size of, 250, sec. 8.

penalty for selling by unsealed or unjust weights or measures, 250, sec. 9.

one hundred weight to be 100 pounds avoirdupois, 251, sec. 12.

contracts for goods sold by weight to be so weighed, 251, sec. 12.

public or town weighers to weigh accordingly, 251, sec. 13.

penalty for violation of, 251, sec. 14.

notice to be given selectmen before suit commenced for neglect to procure set of weights and measures, 251, sec. 15.

if procured in twenty days after notice, suit not to be sustained, 251, sec. 15.

WHEELS, width of, regulated, 149, sec. 4.**WIDOW, allowance to, 420, sec. 1, 2.**

distributive share of, 421, sec. 8-14.

entitled to dower, when, and in what, 420, sec. 2.

in what not entitled, 420, sec. 4.

dower, how estimated, 420, sec. 5.

may be assigned specially, when, 420, sec. 6.

waste in, forbidden, 420, sec. 7.

action of, by, 421, sec. 1-7.

in rents and profits, 420, sec. 6.

WIFE. See Husband and Wife.**WILDCATS, bounty for, 256, sec. 3.****WILLS, who may make, 400, sec. 1-7.**

includes *codicil*, 45, sec. 18.

may be made by married women, when, 421, sec. 11.

in such cases, not to affect rights of husband, 381, sec. 11.

Construction of, 400, sec. 5.

Contributions, when deficiency of estate, who by, 400, sec. 4.

Devise, what estate it gives, 400, sec. 4.

not defeated by death, 400, sec. 11.

nor by disclaimer, 400, sec. 8.

when void to witness of will, 400, sec. 8.

to heirs, not to affect devise for life, 400, sec. 5.

Executor of, to prove will, 402, sec. 3.

or file same, declining trust, 402, sec. 3.

to convey real estate, contracted by testator, 415, sec. 10.

minor, when he may be, 404, sec. 6.

Foreign, effect of filing, 403, sec. 12.

how filed, and notice, 403, sec. 14.

Heirs, devise to, not to enlarge or affect devise for life, 400, sec. 5.

of devise or legate, to take, 400, sec. 11.

Nuncupative will, how made, and when valid, 401, sec. 15.

of personal estate, how made, 401, sec. 13.

Probate of, by whom granted, 398, sec. 3.

notice, when necessary, 403, sec. 8.

how served, 403, sec. 8.

in common form, 403, sec. 6.

in solemn form, 403, sec. 7.

minors, insane, &c., entitled to re-examination, when, 403, sec. 9.

when not presented for probate by executor, probate of, on application of widow or heir, 403, sec. 10.

none in solemn form, till guardians of minors shall be appointed, 403, sec. 11.

proof in, when attesting witness incompetent, 403, sec. 12.

effect of filing foreign will proved elsewhere, 403, sec. 13.

Property, what passes by, 400, sec. 2.

Revocation of, how made, 401, sec. 13, 14.

Seamen and soldiers may make will as they have heretofore done, 400, sec. 7; 401, sec. 16.

Widow, on waiver of provisions in, entitled to dower, 401, sec. 12.

Will, penalty for not filing in probate office, 403, sec. 4.

execution of, 400, sec. 6.

WILLS. (*Continued.*)

Will, execution of nuncupative will, 401, sec. 15, 16.
of seamen and soldiers, 400, sec. 7; 401, sec. 16.

codicils, 45, sec. 18.

probate of, 402, chap. 166.

witnesses to execution of, 400, sec. 6.

WITNESSES in court of probate, 485, sec. 4, 6.

depositions may be used in, 384, sec. 17.

to wills, 400, sec. 6.

who are competent, 485, sec. 12, 9.

summons for, form of, 484, sec. 2.

how summoned, 485, sec. 6.

depositions of, how taken, 486, sec. 18.

liability of, for not attending, 485, sec. 7.

to attend court in other States, when, 487, sec. 30, 31.

not disqualified by interest in any penalty, 539, sec. 10.

nor by his religious belief, 485, sec. 9.

may be compelled to appear before court martial, 219, sec. 16.

courts of inquiry, 221, sec. 7.

fees of, in court of common pleas and justice courts, 580, sec. 12, 13.

if going out of the State, 487, sec. 31.

in courts martial, 219, sec. 21.

not to be taxed against towns, when, 144, sec. 4.

before coroner, 570, sec. 7.

in criminal trials, who may be, 575, sec. 20.

to recognize in criminal cases, 564, sec. 7.

inhabitants of towns, competent, 485, sec. 12.

members of public corporations competent, 485, sec. 12.

insurance companies, 485, sec. 12.

attendance of, compelled, 485, sec. 8.

WOLVES, bounty for, 235, sec. 1.

WOOD, injury to, penalty, 525, sec. 1.

See *Cord wood*, 246, chap. 110.

WORK-HOUSE. See *House of correction*.

WORDS, limitation of action for, 461, sec. 3.

WOUNDING, limitation of action for, 461, sec. 3.

WORSHIP, religious, rudeness in religious meetings forbidden, 271, sec. 2.

selectmen and police officers may remove persons behaving rudely in such meetings, 271, sec. 4.

disturbers of religious meetings may be removed, 271, sec. 6.

penalty for such offences, 271, sec. 3; 272, sec. 7.

WRITS, abatement of. See *Abatement*.

to be in the English language, 462, sec. 1.

issue of, by courts, 462, sec. 2.

by justices, 462, sec. 4, 5.

general requisites of, 462, sec. 2, 4.

original, to be summons or attachment and capias, 462, sec. 3.

justice, how directed, if property in another county, 462, sec. 6.

form of, if not prescribed, process to conform to general forms, 462, sec. 7.

in real actions, to be summons or attachment, 462, sec. 8.

how to issue, if name of defendant unknown, 462, sec. 9.

original, to be endorsed, 465, sec. 17.

endorser of, when liable, 465, sec. 18.

remedy against, 466, sec. 19.

of attachment, form, 462, sec. 10.

of summons, when goods attached, 463, sec. 11.

of capias and attachment, 463, sec. 12.

of summons, 464, sec. 13.

of replevin, 464, sec. 14.

of trustee, 465, sec. 15.

of scire facias, 465, sec. 16.

of possession, 466, sec. 11.

of habeas corpus, 513, sec. 8.

of summons for witnesses, 484, sec. 2.

service of. See *Service*.

against manufacturing corporations, 387, sec. 32.

See *Habeas corpus*.

See *Attachment*.

WRITTEN includes printed, 45, sec. 19.

YEAR, meaning of, 44, sec. 7.

